

THE MADRAS LEGISLATIVE COUNCIL.

Thursday, the 25th November 1948.

The House met in the Council Chamber, Fort St. George, at eleven of the clock, Mr. President (THE HON. SRI R. B. RAMAKRISHNA RAJU) in the Chair.

I.—QUESTIONS AND ANSWERS.

STARRED QUESTIONS.

Wholesale dealers in cloth in Bellary district.

* 131-A Q.—SRI B. BHIMA RAO : Will the Hon. the Minister for Industries be pleased to state the names of wholesale dealers in cloths selected for the district of Bellary in accordance with the recent rules and regulations together with the names of towns or taluks to which each of them has been assigned?

THE HON. SRI H. SITARAMA REDDI :—“ The selection of the following wholesale dealers in cloth for the Bellary district has been approved by the Government :—

For cloth of all mills other than B. & C. Mills.
Bellary taluk—

- 1 Miachand Motilal.
- 2 Ginka Venkataswami.

Rayadrug taluk—

Sri G. Venkataramanappa & Brothers.

Alur taluk—

H. Sanjeeva Reddi.

Adoni taluk—

G. K. Ratchotappa & Brothers.

Hadagalli taluk—

Hastimal Parsoji.

Kudligi taluk—

Ukkada Siddaramappa of Hospet for Kottur Town.

Exclusively for cloth of B. & C. Mills.

- 1 K. M. Yusuf and Sons, Bellary.
- 2 R. Sivappa Sanjeevarayudu, Adoni.
- 3 G. R. Hanumantha Rao & Sons, Adoni.

Exclusively for cloth of Mettur Industries.

- 1 Ganesmal Pratapmal, Bellary.
- 2 P. Subbaramayya, Adoni.

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3 T. G. Lakshmiah Setty, Adoni.

4 Manaji Premchand, Adoni.

5 Kalyanji Vittaldoss, Adoni.

6. J. Gadilingappa Jambanna, Bellary.

“Proposals from the Collector for the selection of five more wholesale dealers for mill cloth other than B. & C. cloth one for Siruguppa taluk, one more for Adoni taluk, two for Hospet taluk and one for Harpanahalli taluk are awaited.”

SRI R. SURYANARAYANA RAO :—“May I know what these rules and regulations are under which these dealers have been given licence?”

THE HON. SRI H. SITARAMA REDDI :—“Certain instructions were issued to the Collectors of the districts under which dealers whose record has been good may be given first priority and then second priority, third priority and fourth. Then Members of the Legislature may be consulted in the matter of selection, and after selection, as per instruction of Government certain names are sent up which are examined by the Provincial Textile Commissioner, and they come for approval to Government.”

SRI R. SURYANARAYANA RAO :—“So those are only instructions and not rules.”

THE HON. SRI H. SITARAMA REDDI :—“Yes, Sir.”

Auditing the accounts of the Hindu Religious Endowments Board.

* 132 Q.—SRI S. B. ADITYAN : Will the Hon. the Premier be pleased to state—

(a) whether any change has been made in the system of auditing the accounts of the Hindu Religious Endowments Board;

(b) if so, what the changes are; and

(c) the reasons for the change?

THE HON. DR. T. S. S. RAJAN (on behalf of the Hon. the Premier) :—“(a) No.

“(b) & (c) Do not arise.”

Amount of bonus granted by the Central Government.

* 133 Q.—SRI K. MANATHUNAINATHA DESIGAR : Will the Hon. the Minister for Food be pleased to state—

(a) the amount of bonus granted by the Central Government;

(b) the conditions mentioned in the Government of India, Ministry of Food, Press Communiqué, dated 8th December 1947, regarding the utilization of the bonus amount granted by them, in the present Khariff year;

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(c) how the bonus amount granted by the Central Government in the present Khariff year was spent by the Madras Government;

(d) whether the producers were supplied with manures and other commodities essential for food production, at concessional rates; and

(e) if not, why the Government have not utilized the Government of India bonus amount towards the above purpose, i.e., mentioned in (d)?

THE HON. DR. T. S. S. RAJAN :—“(b) The condition governing the grant of food bonus is that it should be utilized either for meeting the losses, if any, on distribution of foodgrains procured in India or for supplying manures, fertilizers and other commodities essential for production of foodgrains to the producers of such grains at concessional prices.

“(a), (c), (d) & (e) The attention of the hon. Member is invited to the reply to starred question No. 3 which was answered in this House on 22nd July 1948. The final amount to be claimed from the Government of India and the manner in which this amount should be distributed are still under consideration of this Government in consultation with the Board of Revenue (Civil Supplies) and the Director of Agriculture, Madras.”

SRI K. MANATHUNAINATHA DESIGAR :—“Are Government aware that the supply of manure by Government as bonus has helped to produce more food in the Province to a great extent?”

THE HON. DR. T. S. S. RAJAN :—“It was certainly meant to be an incentive to the producers to produce more, but how much more it has done to help Government procurement, it is very difficult to assess now.”

SRI K. MANATHUNAINATHA DESIGAR :—“If so, will they adopt the advice of the Central Government to utilize the bonus to supply manures, etc., at concessional rates?”

THE HON. DR. T. S. S. RAJAN :—“It has been given to the people at concessional rates. But the difficulty of Government is they have not at their disposal sufficient stock necessary. So we have suggested that we will pay cash where manures are not available.”

SRI K. MANATHUNAINATHA DESIGAR :—“May I enquire, Sir, whether for the Khariff year of 1947-48 the Government will utilize the bonus amount for supplying manure to the ryots at concessional rates?”

THE HON. DR. T. S. S. RAJAN :—“It all depends upon the availability of manure in the hands of the Government.”

SRI K. MANATHUNAINATHA DESIGAR :—“I mean, whatever manure is available to be sold through Government agency, will they be sold to the people at concessional rates?”

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THE HON. DR. T. S. S. RAJAN :—" The Government have no objection in giving it provided they have the necessary quantity of manure at their disposal."

MR. PRESIDENT :—" He stresses on concessional rates."

THE HON. DR. T. S. S. RAJAN :—" Even, as it is, Government are afraid they will not be able to give the manure for the coupons they have already issued, and we do not know what we are going to get this year."

SRI C. N. MUTHURANGA MUDALIYAR :—" May I know whether there is any bonus at all for this year? "

THE HON. DR. T. S. S. RAJAN :—" The bonus given is for the year 1947-48."

SRI K. MANATHUNAINATHA DESIGAR :—" We do not know for which year the bonus was given, beyond the fact that it was issued for one Khariff year; I do not know whether it is for 1947-48. I am not referring to the current year. I do not know what a year means."

THE HON. DR. T. S. S. RAJAN :—" I am not concerned with what a 'year' means. A year means twelve months; and the hon. Member knows that it means nothing more and nothing less. We do not know what we are going to get from the Government of India. As soon as a decision is reached it will be communicated to us."

Duties of the Assistant Commercial Tax Officers.

* 134 Q.—SRI B. BHIMA RAO : Will the Hon. the Minister for Finance be pleased to state—

(a) whether the Government have issued any instructions to the Assistant Commercial Tax Officers with regard to their duties and functions when they inspect shops and factories within the area of their jurisdiction, and if so, whether the Government intend to lay the instructions on the table of the House;

(b) whether the said officers have been passing over the defects without issuing necessary warnings in order to assess the merchants concerned to sales tax and levy heavy penalty from them; and

(c) whether the Government have expressed their disapproval in such cases and issued any warnings to the said officers?

THE HON. SRI B. GOPALA REDDI :—" (a) No.

" (b) No specific instances of the kind have been brought to the notice of the Government.

" (c) Does not arise."

SRI B. BHIMA RAO :—" Are Government aware that the Assistant Commercial Tax Officers, when they visit villages fine merchants for defects, and they do not issue any warning to the people concerned?"

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THE HON. SRI B. GOPALA REDDI :—“ The Assistant Commercial Tax Officers cannot be running schools for the merchants.”

SRI B. BHIMA RAO :—“ Not running schools, Sir. If they find any defect in the maintenance of accounts, is it not their duty to give them proper instructions first, instead of inflicting fines and penalties? ”

THE HON. SRI B. GOPALA REDDI :—“ People who come forward to do business should conform to rules under the Sales Tax Act. If they do not do so they are subject to penalties, and it is not the duty of the officers to give them warning.”

SRI B. BHIMA RAO :—“ Is the Hon. Minister aware that the rules are not published in the regional language, Telugu and Kannada so far as the districts of Bellary and Anantapur are concerned, and we have to purchase the rules in English and translate them to the merchants in the local vernacular.”

THE HON. SRI B. GOPALA REDDI :—“ I will take the suggestion of the hon. Member. If they are not available in Telugu and Kannada, they will be made available, Sir.”

SRI B. BHIMA RAO :—“ Will the Hon. Minister enquire whether the rules are available in Telugu and Kannada? ”

THE HON. SRI B. GOPALA REDDI :—“ My information is they are available in the regional language. If they are not available they will be published in the regional language and made available to the merchants.”

Action to be taken against merchants who go against rules.

* 135 Q.—SRI B. BHIMA RAO : Will the Hon. the Minister for Finance be pleased to state—

(a) whether the Government have issued any instructions to the Commercial Tax Officers to levy sales tax on merchants who have not strictly complied with the rules with regard to the date of submission of their returns or applications for the issue of necessary licences;

(b) whether the Government have made provision for the imposition of a nominal penalty in such cases; and

(c) if not, whether they propose to make such a provision in future?

THE HON. SRI B. GOPALA REDDI :—“ (a) Where an exemption is granted subject to the condition that a licence is obtained or that a particular return is filed within the dates prescribed in the Act or in the rules, the assessing authority will be within his powers to levy sales tax if the returns or applications for licence are not filed within the dates prescribed. No instructions have been issued by the Government in the matter.

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“(b) & (c) A licence is not ordinarily granted or renewed with effect from a date prior to the date of receipt of the application and will expire on the 31st day of March of the year in respect of which it is granted, or renewed. Under the proviso to rule 6 (3) of the Madras General Sales Tax Rules, 1939, the Commercial Tax Officer may, in any deserving case, direct the licensing authority to accept an application for the grant or renewal of a licence received after the prescribed date and issue the licence with retrospective effect on the applicant's paying as penalty a sum not exceeding the limits prescribed in that proviso.”

SRI B. BHIMA RAO :—“ Is the Hon. Minister aware that if the monthly returns did not reach the officers by the first of every month, and say, there is a delay of a day or two, sales tax is levied. In such cases would the Hon. Minister consider the desirability of levying only a nominal penalty; say, if there is a delay of a day or two or three.”

THE HON. SRI B. GOPALA REDDI :—“ I think the discretion is already there vested in the officers.”

SRI B. BHIMA RAO :—“ From the rules I see no discretion is vested in them. Even if the returns do not reach the officer with a slight delay of two or three days, will the Hon. Minister see that the merchants are not subjected to payment of sales tax.”

THE HON. SRI B. GOPALA REDDI :—“ If it is a widespread thing, if all the officers are acting like that, we shall think of issuing some general instructions.”

SRI B. BHIMA RAO :—“ May I request the Minister to see such instructions are issued? ”

THE HON. SRI K. MADHAVA MENON :—“ It is not a question.”

THE HON. SRI B. GOPALA REDDI :—“ With regard to money matters we cannot be too lenient.” (Laughter.)

Proposal to take over petrol companies by the Government.

* 136 Q.—ABDUL LATIF FAROOKHI SAHIB BAHADUR : Will the Hon. the Minister for Finance be pleased to state whether, in view of the scheme of nationalization of motor transport in the whole Province, the Government have under consideration any proposal to take over petrol companies as well?

THE HON. SRI B. GOPALA REDDI :—“ The answer is in the negative.”

ABDUL LATIF FAROOKHI SAHIB BAHADUR :—“ In view of the scheme of nationalization of motor transport in the whole Province, will it not be advantageous to the Government to take over petrol companies, as it will augment the resources? ”

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THE HON. SRI B. GOPALA REDDI :—“ We are highly thankful to the hon. Member for his suggestion. We shall consider it in due course.”

SRI S. B. ADITYAN :—“ The question refers to the scheme of nationalization of motor transport in the whole Province. May I know whether there is any such scheme? ”

THE HON. SRI B. GOPALA REDDI :—“ We did have a scheme to nationalize motor transport throughout the Province in five years. But later on we deferred it due to several difficulties. We shall resume the consideration of it very soon.”

SRI S. B. ADITYAN :—“ May I know whether it will not be better for the Government to invest their funds on new industries instead of on the taking over of existing industries? ”

THE HON. SRI B. GOPALA REDDI :—“ That also is being done.”

Assistant Panchayat Officers.

* 137 Q.—SRI A. GOVINDACHARYULU : Will the Hon. the Minister for Local Administration be pleased to state whether it is a fact that the designation of Assistant Panchayat Officers has been changed into Deputy Panchayat Officers and if so, why?

THE HON. SRI K. CHANDRAMOULI :—“ No. It is not a fact that the designation of Assistant Panchayat Officers has been changed. The cadre of Assistant Panchayat Officers was abolished and a new cadre of officers called Deputy Panchayat Officers on a higher scale of pay was created, in order to secure a better type of officers for the supervision of Panchayats.”

SRI R. SURYANARAYANA RAO :—“ May I know whether the Deputy Panchayat Officers are paid by district boards as was the case with Assistant Panchayat Officers? ”

THE HON. SRI K. CHANDRAMOULI :—“ Yes, Sir, they are paid by district boards.”

SRI R. SURYANARAYANA RAO :—“ May I know who the appointing authority is, the district board or the Government? ”

THE HON. SRI K. CHANDRAMOULI :—“ The Government have appointed a selection committee and that committee prepares a list. The district board appoints persons from the list.”

SRI R. SURYANARAYANA RAO :—“ May I take it that an officer is not forced on a district board against its will and that the district board is competent to choose an officer from the list? ”

THE HON. SRI K. CHANDRAMOULI :—“ Yes, Sir, the district board is competent.”

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Rules for admission into the Engineering Colleges.

* 138 Q.—SRI R. SURYANARAYANA RAO : With reference to the statement made by the Hon. the Minister for Education in answering question No. 45 (18) on the 14th August 1948 will the Hon. the Minister for Education be pleased to state—

(a) whether the Government of India of their own accord or on representation made by any one else called for the explanation of the Government of Madras in regard to rules governing the admission into the Engineering Colleges;

(b) what the nature of the communication of the Government of India was; and

(c) whether the Government intend to place the whole correspondence on the table of the House?

THE HON. SRI T. S. AVINASHILINGAM CHETTIYAR :—

“(a) & (b) With reference to certain allegations in the Central Assembly by Srimathi Durga Bai, the Government of India asked for information regarding the procedure adopted in making admissions to colleges in this Province and that was supplied to them.

“(c) The hon. Member is referred to unstarred question No. 3 answered on 13th August 1948.”

SRI R. SURYANARAYANA RAO :—“With reference to clause (c), the answer given previously was that the correspondence could not be placed on the table of the House.”

THE HON. SRI T. S. AVINASHILINGAM CHETTIYAR :—

“Yes, Sir, that was the answer.”

SRI B. BHIMA RAO :—“May I know whether the Madras Government represented to the Government of India that complaints about the communal rule governing admission into the Engineering Colleges were received mainly from Brahmans?”

THE HON. SRI T. S. AVINASHILINGAM CHETTIYAR :—

“Yes, Sir.”

SRI B. BHIMA RAO :—“Is it not a fact that the Indian Christian Community also is for the abolition of the communal Government Order and that the hon. Dr. John, in a broadcast speech made in April, said that it must be scrapped?”

MR. PRESIDENT :—“I think the reference is to complaints received by the Government and not to any broadcast speech.”

SRI B. BHIMA RAO :—“Have not any other community than the Brahman community made any complaints?”

THE HON. SRI T. S. AVINASHILINGAM CHETTIYAR :—

“It is evident from the interest that the hon. Member shows in the matter.”

SRI R. SURYANARAYANA RAO :—“In view of the fact that the allegations were made in the Constituent Assembly and

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and the attention of the public has been pointedly drawn, is it not desirable to place the correspondence on the table? "

THE HON. SRI T. S. AVINASHILINGAM CHETTIYAR :—

" Usually correspondence between Governments is treated as confidential."

MR. PRESIDENT :—" I remember to have read some time back in the papers a communiqué or note by the Government of India."

SRI B. BHIMA RAO :—" I sent a copy of the reply that I received from the Government of India to all the papers in Madras. But ' Swatantra ' alone published it about two weeks ago. The matter is important and that is why I am asking the Hon. Minister about it."

MR. PRESIDENT :—" The hon. Member may put the question."

SRI B. BHIMA RAO :—" May I know if this Government have said that the general instructions given by Sri C. Rajagopalachariar in 1938, when he was the Prime Minister, are being followed by this Government? "

THE HON. SRI T. S. AVINASHILINGAM CHETTIYAR :—

" The Government Colleges are of two kinds. One is the professional college and the other is the Arts College. With regard to admission to Arts Colleges, the instructions issued at the time when Sri C. Rajagopalachariar was the Prime Minister are being followed."

SRI B. BHIMA RAO :—" The question is with regard to admission to professional colleges."

THE HON. SRI T. S. AVINASHILINGAM CHETTIYAR :—

" The Government have not said to anybody or anywhere that admission to professional colleges are governed by rules issued by the Government in 1938 or 1939."

SRI S. A. S. RM. RAMANATHAN CHETTIYAR :—" இதுவரையில் இஞ்சினீயரிங் காலேஜில் பிராமணர்கள் அதிகமாக படித்திருக்கிறார்களா அல்லது பிராமணரல்லாதார்கள் அதிகமாக படித்திருக்கிறார்களா? "

THE HON. SRI T. S. AVINASHILINGAM CHETTIYAR :—" இது

சம்பந்தமாக எந்த வருஷத்தில் என்று குறிப்பாக சொல்லாவிட்டால் இதற்கு பதில் சொல்வது கஷ்டமாக இருக்கும். "

SRI S. A. S. RM. RAMANATHAN CHETTIYAR :—" நடை முறையிலிருக்கும் வருஷத்தில் கணக்கு என்ன என்று கேட்கிறேன். "

THE HON. SRI T. S. AVINASHILINGAM CHETTIYAR :—" எந்த

வருஷத்திலிருந்து எந்த வருஷம் வரையில் என்று சொல்வது எண்ணிக்கையைப் பார்த்தால் தான் சொல்லமுடியும் மொத்தமாக பல பேர்கள் படித்திருக்கிறார்கள். குறிப்பாக எண்ணிக்கை என்ன என்று சொல்வது கஷ்டமாக இருக்கும். "

SRI S. A. S. RM. RAMANATHAN CHETTIYAR :—" Majority-யாக பிராமணர்கள் தானே படித்திருக்கிறார்கள் . . . "

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SRI B. BHIMA RAO :—“ Has not the Hon. Minister given figures for the years 1943, 1944 and 1945 in reply to a question put by Mr. M. Muhammad Ismail Sahib, Leader of the Opposition, in the Assembly on 24th February 1946? ”

THE HON. SRI T. S. AVINASHILINGAM CHETTIYAR :—

“ What has that to do with this? Quite possible. I have answered many questions on this subject.”

SRI B. BHIMA RAO :—“ According to those figures, have not the Muslims and Harijans secured almost cent per cent admission in those years? ”

THE HON. SRI T. S. AVINASHILINGAM CHETTIYAR :—

“ I have not got those figures before me. It is difficult to answer such a question without proper notice.”

SRI B. BHIMA RAO :—“ Does not the Communal Government Order adversely affect the interests of Muslims? ”

MR. PRESIDENT :—“ It does not arise from this question. This question asks whether any representation was made to the Government of India and what their reply was. What is it that the hon. Member wants to know? ”

SRI B. BHIMA RAO :—“ The Muslim League Members in the Assembly wanted the abolition of admission on merit and introduce the communal rule. Therefore does not that rule adversely affect the interests of the Muslims? ”

THE HON. SRI T. S. AVINASHILINGAM CHETTIYAR :—

“ The hon. Member may put a separate question.”

Rules governing admission to Medical Colleges.

* 139 Q.—SRI R. SURYANARAYANA RAO : With reference to the statement made by the Hon. Minister for Education in answering question No. 45 (18) on the 14th August 1948 will the Hon. the Minister for Education be pleased to state—

(a) whether the Government of India of their own accord or on representation made by any one else called for the explanation of the Government of Madras in regard to rules governing the admission into the Medical Colleges;

(b) what the nature of the communication of the Government of India was; and

(c) whether the Government intend to place the whole correspondence on the table of the House?

THE HON. SRI T. S. AVINASHILINGAM CHETTIYAR :—

“ (a), (b) & (c) The attention of the Hon'ble Member is invited to the answer given to previous question.”

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Communication of the Central Government regarding the principles of educational policy.

* 140 Q.—SRI B. BHIMA RAO: Will the Hon. the Minister for Education be pleased to lay on the table of the House—

(a) the communication addressed by the Government of Dominion of India with regard to the principles of educational policy to be adopted throughout the Dominion of India;

(b) the reply sent thereto by the Government of Madras;

(c) the further reply sent by the Dominion Government to the Government of Madras; and

(d) whether the attention of the Government has been drawn to the communication sent by the Private Secretary to the Prime Minister of India to "Swatantra" which was published on page 12 of the issue, dated 28th August 1948, to the effect that he is opposed to all kinds of communalism, Brahman, Non-Brahman or any other?

THE HON. SRI T. S. AVINASHILINGAM CHETTIYAR:—

"(a), (b) & (c) The attention of the hon. Member is invited to unstarred question No. 3, answered on 13th August 1948.

"(d) Yes."

SRI B. BHIMA RAO:—"What is the reaction of the Hon. Minister to the communication referred to in clause (d)?"

THE HON. SRI T. S. AVINASHILINGAM CHETTIYAR:—

"This Government entirely agree that there should not be any sort of communalism, Brahman, Non-Brahman or any other."

SRI B. BHIMA RAO:—"Does the Hon. Minister implement this in the policy that he pursues?"

THE HON. SRI T. S. AVINASHILINGAM CHETTIYAR:—

"Yes, Sir, we do accept the policy that there should not be communalism. But we also want that there must be communal justice and that all people should have sufficient opportunities for getting education."

Deposits of phosphatic nodules in Tiruchirappalli district.

* 141 Q.—SRI R. SURYANARAYANA RAO: Will the Hon. the Minister for Industries be pleased to state—

(a) whether the Government are aware of the presence of phosphatic nodules in sufficient quantity in Tiruchirappalli district;

(b) whether an analysis has shown that these nodules are rich in phosphatic content;

(c) whether a survey of the deposits of phosphatic nodules has been carried out; and if so, what the results of the survey are;

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(d) whether Government have at any time examined the economic exploitation of these phosphatic nodules;

(e) whether at the instance of the Government successful experiments were carried out in the Indian Institute of Science, Bangalore, to produce calcined phosphate: and

(f) if the answer to (e) is in the affirmative, what further steps the Government propose to take to produce the much needed super-phosphates using what is known as "Bangalore Method"?

THE HON. SRI H. SITARAMA REDDI:—“(a), (b) & (c).—

The Government are aware of the occurrence of phosphatic nodules in Tiruchirappalli district. This was revealed in a survey of the mineral substances of the Tiruchirappalli district carried out by the Geological Survey of India in 1940. It was reported that the area containing the nodules is between 11 and 12 square miles and the reserves of the mineral up to a depth of 50 feet were estimated at 2,000,000 tons; but no pronouncement has so far been made by any analyst that the nodules are rich in phosphatic content.

“(d) The Government have examined the question of utilization of the phosphatic nodules occurring in the Tiruchirappalli district for the production of super-phosphate. Three methods have been suggested for converting the Tiruchirappalli nodules into phosphatic manure and they are—

(1) Conversion of the ground nodules into super-phosphate by treatment with sulphuric acid;

(2) Calcination of the ground nodules with felspar, quartz and magnesite in a rotary kiln to yield a sintered product in which part of the phosphate in the original mineral is converted into a citric soluble variety; and

(3) Fusion of the nodules with silica and magnesia in an electric furnace to yield a product in which all the phosphate in the mineral is converted into a soluble form.

“(e) & (f) In July 1944, the Indian Institute of Science, Bangalore, claimed to have evolved a process by which phosphatic fertilizer could be manufactured from the phosphatic nodules. This process is the second of the three processes mentioned in the answer to clause (d). The product of the Bangalore Institute process was tried in experiments conducted in 1946 in the agricultural farm at Aduthurai. The results of the experiments were not considered adequate for any inference. It was later found that the Bangalore process which was tried by the T.V.A. in America had to be abandoned on account of certain disadvantages. It is stated that experiments for the production of phosphatic fertilizer were carried out by the T.V.A. employing an electrical furnace to fuse mineral rock phosphate with magnesite and silica as fluxes and that actual farming experiments conducted in America with the resulting fertilizer showed that the fertilizer

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obtained by this process was even superior to that obtained by the Rotary Kiln process. This process, it appears, promises to be the most economic way of utilizing the Tiruchirappalli nodules at less than half the cost of super-phosphate made by the acid process. Recently a private company has been floated for the manufacture of fused phosphate employing the process described above."

SRI R. SURYANARAYANA RAO :—" Has this private company started functioning and has it been given permission to float the necessary capital? "

THE HON. SRI H. SITHARAMA REDDI :—" From the information available, I understand that one of the promoters has gone or is about to go to America to secure plants and finalize technical details."

SRI S. B. ADITYAN :—" May I know why this Government should not undertake the manufacture of phosphatic manure? "

THE HON. SRI H. SITARAMA REDDI :—" When there are people who are prepared to undertake the manufacture, we allow them."

ABDUL LATIF FAROOKHI SAHIB BAHADUR :—" Why not nationalize? "

THE HON. SRI H. SITARAMA REDDI :—" This is not one of the industries that is proposed to be nationalized."

MR. PRESIDENT :—" I will be glad to know if the hon. Member has understood the terms used in the answer like ' rotary kiln ', ' fusion with silica and magnesia ' etc."

SRI R. SURYANARAYANA RAO :—" In the deliberations of the Industrial Planning Committee, we became familiar with those terms."

MR. PRESIDENT :—" I suppose the Hon. Minister understands them."

THE HON. SRI H. SITARAMA REDDI :—" I am supposed to."

The dispute between the mirasdars and kisans in the Tanjore district.

* 142 Q.—SRI K. MANATHUNAINATHA DESIGAR : Will the Hon. the Minister for Industries be pleased to state—

(a) whether it is a fact that he visited Tanjore district on the 23rd October 1948; and

(b) whether it is a fact that the Joint Secretary, Development Department, also visited Tanjore district on the 23rd October and announced the decisions of the Government of Madras in the dispute between the mirasdars and kisans regarding wages, etc.?

THE HON. SRI H. SITARAMA REDDI :—" (a) & (b) Yes, Sir."

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SRI K. MANATHUNAINATHA DESIGAR :—" Sir, on what previous occasions were Secretaries to Government sent out for purposes of this kind? "

THE HON. SRI H. SITARAMA REDDI :—" Sir, I should like to have notice. But for the information of the hon. Member, I may tell him that it has always been the practice of Government that Government Orders are always conveyed to the parties by the Secretaries to Government."

SRI K. MANATHUNAINATHA DESIGAR :—" May I know, Sir, whether the established convention of confining the functions of Secretaries to Government within the four walls of the Secretariat is being followed? "

THE HON. SRI H. SITARAMA REDDI :—" No violation of that convention has taken place, Sir. Perhaps the hon. Member is not aware of the practice."

SRI K. MANATHUNAINATHA DESIGAR :—" Is it not advisable that the Hon. Ministers themselves attend to matters of this kind, Sir? "

MR. PRESIDENT :—" By restricting themselves within the four walls of the Secretariat! " (Laughter.)

THE HON. SRI H. SITARAMA REDDI :—" Sir, it does not seem to be a question addressed to a particular Minister. It seems that the hon. Member is expressing his own personal opinion."

Clemency shown to Pichai Ammal of Tirunelveli.

* 143 Q.—SRI S. B. ADITYAN: Will the Hon. the Minister for Agriculture be pleased to state whether the Government exercised their powers of clemency in the case of one Pichai Ammal convicted under section 302, I.P.C., by the Sessions Judge, Tirunelveli, and, if so, the grounds therefor?

THE HON. SRI K. MADHAVA MENON :—" No. The Government are awaiting the result of the appeal which the prisoner is reported to have filed."

SRI K. MANATHUNAINATHA DESIGAR :—" May I know Sir, what are the charges in this case? "

THE HON. SRI K. MADHAVA MENON :—" Sir, in this case the woman was charged with having murdered her three children and then attempting to commit suicide herself."

SRI S. B. ADITYAN :—" Was it not mentioned in the judgment of the Sessions Judge that the reason which induced the woman to attempt to commit suicide was acute poverty? "

THE HON. SRI K. MADHAVA MENON :—" That was the plea that was put forward by the woman in her appeal, that owing to starvation she found it impossible to maintain her children, because her husband deserted her and therefore she put to death her children and wanted to commit suicide."

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SRI R. SURYANARAYANA RAO :—“ Are the Government quite sure that she is going to appeal? ”

THE HON. SRI K. MADHAVA MENON :—“ She has already appealed, Sir.”

Registration of births and deaths.

* 144 Q.—SRI S. B. ADITYAN : Will the Hon. the Minister for Public Health be pleased to state—

(a) whether registration of births and deaths is compulsory;

(b) how many cases of unregistered births and deaths were detected during the last five years (yearwar);

(c) the reasons for defective registration; and

(d) the steps taken to tighten up the procedure for registration?

THE HON. SRI A. B. SHETTY :—“ (a) Yes.

“ (b) The number of unregistered births and deaths detected during the years 1943 to 1947 were as follows :—

Year.	Number of unregistered births detected.	Number of unregistered deaths detected.
1943	34,512	14,515
1944	25,742	15,315
1945	25,054	12,634
1946	22,629	7,108
1947	42,895	10,859

“ (c) Failure on the part of the public who are responsible for reporting births and deaths to report all births and deaths without omissions.

“ (d) The officers of the Revenue and Public Health Departments, during their tours, scrutinize birth and death registers, detect the unregistered births and deaths and cause the same to be registered, as part of their routine duties.”

SRI S. B. ADITYAN :—“ May I know, Sir, what is the reason for the great increase in the number of unregistered births, as observed from the figures of 25,000 to 42,000 from the year 1943 to 1947? ”

THE HON. SRI A. B. SHETTY :—“ That is due to the failure on the part of the people to report. Registration work is done by the village headmen and the village headmen, as we all know, are saddled with many duties at present.”

ABDUL LATIF FAROOKHI SAHIB BAHADUR :—“ How are the officers able to detect these omissions, Sir? ”

THE HON. SRI A. B. SHETTY :—“ When they go to the villages, they are able to detect many cases which are not registered.”

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ABDUL LATIF FAKOORHI SAHIB BAHADUR :—“ May I know what action is taken against people who do not report births and deaths? ”

THE HON. SRI A. B. SHETTY :—“ Action is taken against defaulters, Sir.”

SRI S. B. ADITYAN :—“ Who are the officers who are charged with the duty of registration of births and deaths in municipal towns? ”

THE HON. SRI A. B. SHETTY :—“ There are Births and Deaths Registrars, Sir, employed in municipal towns.”

SRI S. B. ADITYAN :—“ Is not insufficiency of staff, Sir, one of the reasons for these unregistered births? ”

THE HON. SRI A. B. SHETTY :—“ Yes, Sir. The number of Health Inspectors is too small and their jurisdiction is too large and therefore it becomes difficult for them to detect cases. They have to deal with a large number of people in a wide area.”

SRI R. SURYANARAYANA RAO :—“ Is there any proposal to increase the Health staff in order not only to see to the proper registration of births and deaths, but also to carry out their other duties? ”

THE HON. SRI A. B. SHETTY :—“ There have been proposals under consideration, but the difficulty is one of finance.”

*Termination of the services of Srimathi M. Saguna Bai,
M.B.B.S.*

* 145 Q.—SRI B. BHIMA RAO : Will the Hon. the Minister for Public Health be pleased to state—

(a) whether the services of Srimathi M. Saguna Bai, M.B.B.S., were dispensed with; and

(b) whether the Government can give the reason therefor?

THE HON. SRI A. B. SHETTY :—“ (a) Yes.

“ (b) It was done in public interest.”

SRI B. BHIMA RAO :—“ What is meant by public interest, Sir? ”

THE HON. SRI A. B. SHETTY :—“ She was reported to have Communist sympathies, Sir.”

SRI B. BHIMA RAO :—“ May I know, Sir, what is meant by Communist sympathies in the case of a Lady Assistant Surgeon? Really to give one bad name and hang him, is a very serious matter, Sir. What are the activities which the police suspect of this Lady Assistant Surgeon to have committed in Kurnool? ”

THE HON. SRI A. B. SHETTY :—“ I do not think that I should disclose the matter in the open House, Sir. If the hon. Member comes to me, I will lay the case before him.”

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ABDUL LATIF FAROOKHI SAHIB BAHADUR :—“ Were her services dispensed with on the report of the C.I.D., and if so, was any responsible officer asked to verify whether the report of the C.I.D. was correct or not? ”

THE HON. SRI A. B. SHETTY :—“ Responsible police officers have conducted investigation and it was on the report of the police, who said that she should not be kept in service, that her services were dispensed with. It will be prejudicial, Sir, to the public interest to place the full facts before the House.”

ABDUL LATIF FAROOKHI SAHIB BAHADUR :—“ Will the Government consider the desirability of enquiring into the matter once again apart from the police report? ”

THE HON. SRI A. B. SHETTY :—“ I do not think it is necessary, Sir.”

ABDUL LATIF FAROOKHI SAHIB BAHADUR :—“ Is it not desirable and necessary in the public interest to find out whether the Lady Assistant Surgeon occupying such a responsible position was really guilty or not? Is it proper to act merely on the strength of the C.I.D.'s report, without verifying whether it is correct or not? ”

THE HON. SRI A. B. SHETTY :—“ She was only a temporary Assistant Surgeon not holding any permanent post, Sir. This is not a matter for any departmental enquiry.”

ABDUL LATIF FAROOKHI SAHIB BAHADUR :—“ Whether she was holding a temporary post or permanent post, I may mention that she was holding a responsible appointment. In such a case, is it not necessary on the part of the Government to institute a departmental enquiry whether she was really guilty or not, and can the Government simply depend on the police report and act upon it? ”

THE HON. SRI A. B. SHETTY :—“ A proper enquiry has been made into the matter, Sir, and I do not think it is necessary to go into it in detail at present.”

ABDUL LATIF FAROOKHI SAHIB BAHADUR :—“ May I know what sort of enquiry was conducted apart from the police enquiry? ”

THE HON. SRI A. B. SHETTY :—“ I am not prepared to disclose those facts here, Sir.”

SRI R. SURYANARAYANA RAO :—“ May I know, Sir, whether explanation was called for from the doctor and if so, what explanation has she offered before these orders were passed? ”

THE HON. SRI A. B. SHETTY :—“ She made a representation to the Government, giving her explanation, but the Government were not satisfied with the explanation given.”

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ABDUL LATIF FAROOKHI SAHIB BAHADUR :—“ Will the Government be pleased to appoint an enquiry committee consisting of officials and non-officials to go into the matter again to find out whether she was actually guilty or not? ”

THE HON. SRI A. B. SHETTY :—“ No, Sir, it is not necessary to have any such committee.”

SRI R. SURYANARAYANA RAO :—“ Was there any departmental enquiry after the report of the police? ”

THE HON. SRI A. B. SHETTY :—“ No, Sir.”

SRI R. SURYANARAYANA RAO :—“ Sir, as she was a servant of the Government working under the Surgeon-General with the Government of Madras, was it not proper that the departmental head should have been consulted, before action was taken on the police report? ”

THE HON. SRI A. B. SHETTY :—“ It is not necessary to have departmental enquiry in such cases.”

SRI R. SURYANARAYANA RAO :—“ Then there is no safety for the Government officials, Sir.”

MR. PRESIDENT :—“ It is not a question, please.”

The Government Co-operative Housing Scheme.

*146 Q.—SRI S. B. ADITYAN : Will the Hon. the Minister for Firka Development be pleased to state—

(a) whether any, and what changes, have been made in the Government Co-operative Housing Scheme formulated by the former Minister for Housing; and

(b) whether the Government have placed any restriction on building A and B classes of houses, and, if so, the reasons therefor?

THE HON. DR. S. GURUBATHAM :—“ (a) So far no change has been made in the Co-operative Housing Schemes sponsored by Government.

“ (b) No restriction has yet been placed on the construction of A and B class houses. The Government are however considering the question of encouraging construction of smaller types of houses by co-operative societies in preference to the bigger and costlier types.”

SRI S. B. ADITYAN :—“ May I know, Sir, whether orders have been issued by the Government stating that they would not accord sanction to co-operative house-building societies for constructing A and B class houses? ”

THE HON. DR. S. GURUBATHAM :—“ No, Sir, no such orders have been issued.”

SRI R. SURYANARAYANA RAO :—“ May I know, Sir, when the Government hope to come to a decision on this matter, as meanwhile a number of house-building societies are constructing A and B class houses? ”

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THE HON. DR. S. GURUBATHAM :—“ All societies are not constructing A and B class houses, Sir. They are constructing C class houses also and I see that the proportion is not so great as between A, B and C class houses.”

MR. PRESIDENT :—“ Questions over. The debate on the Zamindari Abolition Bill will now continue.”

[Note.—An asterisk (*) at the commencement of a speech indicates revision by the Member.]

GOVERNMENT BILLS.

II.—(1) THE MADRAS ESTATES (ABOLITION AND CONVERSION INTO RYOTWARI) BILL, 1947 (L.A. BILL No. 37 OF 1947)—*cont.*

ABDUL LATIF FAROOKHI SAHIB BAHADUR :—“ Mr. President, in view of the attitude that we have taken yesterday with regard to an amendment, we are following the same attitude to-day also and we do not propose to take any further part in these discussions, on this Bill.”

MR. PRESIDENT :—“ I think in the interests of the proper and smooth working of this House, we ought not to allow this tension to prevail. I wish that the hon. Deputy Leader of the Opposition will please get into touch with the Government and come to some sort of understanding, so that we may get on as amicably as before. I make this suggestion both to the Government and to the Opposition.”

SRI P. VEERABHADRASWAMI :—“ Mr. President, Sir, this is a very important legislation which the Provincial Government have undertaken since the year 1937. The Prakasam Committee went into the whole question, made a lot of investigations and inquiries and produced voluminous reports. From that time onwards, the zamindari ryots have been expecting legislation on this important question and after many years the Government are now able to bring forward this important legislation which stands to the credit of the present Government and also to the credit of the present Legislature. When the full effects of the present legislation will be known after a few years, people will realise what great achievements we are able to make. This legislation will help to bring about a uniform system of land tenure and the tax burden on the lakhs of zamindari tenants will be greatly lightened and there will be no evictions of tenants from land and we can expect more food crops to be produced and there will be an end to the lot of litigations that have been going on in the zamindari areas.

“ Sir, it has been suggested in certain quarters that in the near future there will be fresh elections and that another party may come into power and that some of the important pieces of legislation passed by the present Government may be repealed or annulled. With all due respect to people holding such views, I may be permitted to say that the Congress will remain in power at least for a decade to come. People in the country are not

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enamoured of the methods that are being adopted by the Communists and other parties and they will never give room for such parties to come into power. It is the Indian National Congress that has brought Swaraj or political freedom in this country and I am sure it will also bring economic Swaraj to the people of this country ere long. Important legislative measures will be introduced in the future that will bring about economic equalization. Capitalism and landlordism will have to undergo very serious changes and there will be plenty of food and clothing for the poor and the needy and we can expect that not only in the national sphere but also in the international sphere, our country will occupy a very important position. So, Sir, I congratulate not only the present Government, but also the present Legislature for putting this important legislation on the statute book."

11-45 a.m. * SRI S. B. ADITYAN:—"Mr. President, Sir, the abolition of the zamindari system was thought of as a small affair in the beginning but looking back upon the history of this legislation one feels that it has been indeed a very difficult matter. Looking at the history of this Bill which is now passing through the third reading I feel that it is no exaggeration to say that, never was a Bill so strenuously and so persistently opposed and never was a measure so bitterly fought at every stage, as this Bill. That this Bill has been brought to this stage, speaks volumes to the tenacity of purpose and the faith in the Congress' Programme, of the Hon. the Revenue Minister. So far as I can see, we have not yet seen the end of the Opposition. It will still be fought in the remaining stages. Representations will be made that the assent should be withheld and even after that, the validity of this Act would be questioned in a court of law. But I believe that the Bill will be held valid in due course and it will achieve the purpose for which it is intended.

"Sir, this is the first step in the abolition of the intermediaries between the cultivator and the State. One feels that it is one of the outstanding achievements of the present Ministry. If one goes to the public for any decision at a later stage this Act will redound to the credit of the Ministry. If the common man asks: 'What has your Ministry done for the public?', then one can rightly and proudly point to this legislation and claim credit for having done something worth the while.

"Sir, while congratulating the Hon. the Revenue Minister on the success with which he has piloted this Bill I would ask him also to bring the rest of his proposed legislation as early as possible. He has already indicated that he proposes to bring a Bill to codify the land tenure and to define by statute the relation between the tenant and the landholder and to bring about certain other land tenure reforms. I would ask the Hon. Minister, Sir, not to rest on his oars but to go ahead and bring all those other welcome reforms so that the land tenure system might be a credit to this Province and to the whole of our country."

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SRI S. A. S. RM. RAMANATHAN CHETTIAR :—“தலைவர் அவர்களே, இப்பொழுது மூன்றாவது கட்டத்திற்கு வந்திருக்கிறோம். ஆகையால் நான் அதிக நேரம் பேசப்போவது இல்லை. ஆனால் இரண்டு பொரு விஷயங்களை மட்டில் பேசுவதற்கு முன் வந்தேன். அதைப்பற்றி கனம் மந்திரி அவர்களிடம் ஏற்கனவே சொல்லி இருக்கிறேன். அதாவது சேர்க்கக்கூடாத சில இனங்களைச் சேர்த்து சில ஜனங்களுக்கு கஷ்டத்தை உண்டு பண்ணாமல் சேர்க்கக்கூடியது என்ன சேர்க்கக்கூடாதது என்ன என்பதை கனம் மந்திரியவர்கள் பார்த்து அதைச்செய்ய வேண்டுமென்று கேட்டுக் கொள்ளுகிறேன்.

“முக்கியமாக தஞ்சாவூர் ஜில்லாவில் Palace இனங்கள் இருக்கின்றன. அரண்மனைக்குச் சொந்தமான பல சத்திரங்கள் Palace தேவஸ்தானம் வகையராகக் கள் எஸ்டேட்டுகள் இருக்கின்றன. அவைகள் எல்லாம் 1936-ம் ஆண்டுக்குப் பிந்திய இனமாக நடவடிக்கையில் இருக்கின்றன என்று நான் நினைக்கிறேன். அந்தமாதிரி இனங்கள் கனம் மந்திரியவர்கள் தெரிந்து கொண்டு அவைகளுக்கு வேண்டிய சட்டத்திருத்தத்தைச் செய்வார்கள் என்று நான் நம்புகிறேன். அத்துடன் கூட கோர்ட்டில் இது விஷயமாக அநேகம் கேஸ்கள் pending-ஆக இருக்கின்றன. Suit-கள் நடந்து decree-கள் pending-ல் இருக்கின்றன. அவைகளெல்லாம் பழைய சட்டம் சம்பந்தமானவைகள். அவைகளை பாக்கியில் வைக்காமல் சீக்கிரத்தில் பைசல் செய்ய வேண்டுமென்று ஆர்டர் அனுப்ப கேட்டுக்கொள்கிறேன். வாயதா போட்டுக்கொண்டே இருக்கிறார்கள். சாதாரணமாக கோர்ட்டில் எவ்வளவு கஷ்டங்கள் இருக்கிறது என்பது கோர்ட்டு அனுப்ப முள்ளவர்களுக்குத்தான் தெரியும். மற்றவர்களுக்கு அதனுடைய கஷ்டம் தெரியாது. அதைக்காட்டிலும் பெரிய கஷ்டம் மனிதருக்கு வேறு ஒன்று மில்லை. ஆயிரம் நாளைப் படைத்த ஆதி சேஷனாலும் சொல்ல முடியாது. ஆகையால் ஜனங்கள் ரொம்பவும் கஷ்டப்படுகிறார்கள். அவர்களுடைய சிரமத்தைக் continue பண்ணாமல் சீக்கிரத்தில் கோர்ட்டில் pending ஆக இருக்கும் கேஸ்களை சீக்கிரத்தில் முடிக்கும்படி செய்யவேண்டும் என்று கேட்டுக் கொள்ளுகிறேன்.

“தவிர இப்பொழுது இந்த சட்டத்தைக்கொண்டு வந்ததற்கு கனம் ரிவினியூ மந்திரியவர்களை நான் மனமாற வாழ்த்துகிறேன்.”

* **THE HON. SRI KALA VENKATA RAO :—**“I am very thankful, Sir, to the hon. Members of the House for all that they have said during the last one week both in the general discussion and later on when the clauses were considered. It was a real surprise to me, Sir, yesterday when the hon. the Leader of the Opposition declared that he would not further partake in the passage of this Bill. It would have been very helpful if his attitude had been different. Especially when he was getting into that mood, Sir, I tried to explain to him very clearly and even gave him an assurance regarding the matter which he raised with reference to clause 40. But he was not to be satisfied. I think there is more of politics in his refusal to partake in the debate than the attitude of the Government in not accepting an amendment. This is not the only Bill, Sir, where amendments were not accepted. In this Legislature many Bills were passed for which amendments were not accepted. We discussed this in the Select Committee, Sir, and hon. Members of the House were represented there. This point was thrashed out there. It was there for four months and hon. Members like Dr. Lakshmanaswami Mudaliyar took pains to scrutinize every clause, comma and fullstop. In reply to a later

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question by Mr. Adityan I said: Whether the gentlemen will co-operate or non-co-operate the Government will stand by their promise.

“ Leaving that aspect of the question, Sir, the hon. Dr. Lakshmanaswami Mudaliyar who spoke about the Bill *in extenso* yesterday—I think that he practically came to the end of his speech—raised two important points. One was about the retrospective effect and the other was about values. Answering the second question first, we cannot say that the values in this world can remain static for all time to come. They have really been shaken on account of two great world wars. After the two world wars certain values have been shaken and no particular Government or no particular country can be blamed for it. To-day the ideas of social justice have very much developed. Even a country like England has changed from the laissez-faire policy to one of State interference. The State has long ago ceased to be a police State and it has become a positive state. It is incumbent and it is the duty of the State to attend to the needs of the common man not leaving him to mercies of certain interests in the country. So when the State brings in a legislation so as to help him in his various spheres of life, we cannot be charged that we have shaken values. As a matter of fact I may claim with all pride that if there was any single individual in the history of the world in recent years it was our Great Gandhiji, the Father of the Nation, who attached a great value to the so-called values which were in the mind of Sir Lakshmanaswami Mudaliyar. He stood like a rock and prevented people from developing into certain by-ways which would have led them to destruction. Of all these things which were held sacred in this world, his preachings about moral value have impressed not only India but the whole world, as one could have seen the tributes paid to Gandhiji. Therefore, if at all there is one party in this country it is the Congress Party that holds to the values, moral, religious, economic, etc., that were advocated by no less a person than Gandhiji. Therefore, Sir, Dr. Lakshmanaswami Mudaliyar need not get perturbed over that aspect of the question.

“ The other important point that he wanted to make in his speech was about retrospective effect. Giving retrospective effect to a legislation is not confined to this Bill alone. I wanted to give a list of all the enactments both here and in England where retrospective effect was given to a number of statutes. Unfortunately my notes were mislaid and I could not bring the list which I read in the Assembly and which was some time ago published in the newspapers. There cannot but be retrospective effect when you want a legislation of this type. As I explained, Sir, there are men who are prepared to make hay while sun shines. People are shrewd enough and when they know what type of legislation is coming, they use their intelligence and they take advice and do things to circumvent the coming Bills. In order to prevent this premonition or whatever you call it on their side, because they are

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taking action to circumvent the coming law, it is but right that we make some provisions with reference to their retrospective and retractive actions. After all what is the retrospective effect we have given? The Congress Election Manifesto was published on 1st November 1945 or thereabouts and we fixed the date at 1st July 1945, only four months before that. It is because the accounts are kept for faslis in revenue matters from July we fixed the date as 1st July 1945. As I told you yesterday, a zamindar getting Rs. 15 lakhs was selling away one of his thanas. A zamindar was assigning a large portion of his lands, about which he had some doubts as to whether they would be classed private lands or not to members of his own family. All these things have to be prevented. It is only with that very good purpose in mind, Sir, that retrospective effect has been put in the Bill, and it cannot be seriously protested against by anyone.

"Sir, the hon. Members, Mr. Bhima Rao and Mr. Ramnathan Chettiar, have pleaded again the cause of the inamdars. As I have explained earlier, as in the case of Tanjore where there are rulings by Courts, etc., we are bound to honour those rulings and we will honour them.

"With reference to the question of the quantum of compensation and the rest, Sir, we will be as liberal as is humanly possible and we will do our best to do justice and pay everyone concerned his due.

"Sir, the hon. Member, Mr. Adityan, has mentioned about the need for taking further steps to complete the picture. As I have already explained the Government have got the peasant in their heart and they will do all that they can to ameliorate his present depressed condition by legislation and by administration.

"I must nonetheless say, Sir, that the search for justice is of course slow and fumbling and men's ideas of what is just do not always agree. Can any sane politician now support Mr. Bagehot when he said: 'that a permanent combination of the working classes would be an evil of the first magnitude'? He was against trade unions in the 1800s and 1850s. Can any politician now support him? His standard of justice was that labour could not get themselves organised into trade unions. Can we agree with his remark that 'our system could only be maintained (that is the system in England could be maintained) by the elections selecting one or two wealthy men to carry out the schemes of the State?' Sir, time has destroyed all these things and our present ideas are different. That was justice to Mr. Bagehot, a well known English politician. If we go to the people now and say 'You should not have trade unions or you should only elect the Rajah of so and so to be your Prime Minister' I do not think we will be satisfying anybody. Sir, standards of justice have changed and they have to fall in line with other things.

"There was also another picture that was presented. It was stated: 'you may go away and you do not know what may happen to-morrow. The Communists may upset all your arrangements' noon.

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about retrospective effect and other things.' Sir, I say, the Communists do not think in terms of legislation at all. They want to proceed irrespective of legislation. Their ideal is the complete eradication of the present principles of economic background in the whole country. But, Sir, a politician will not lose courage or allow himself to believe that his search for right is a mere will of the wisp, and that the riddle of social justice is not only unsolved but insoluble. Only one should take guard against formulæ that express a fixed or static state of things. I have read somewhere, there are two words in medicine that you must never use. They are 'always' and 'never' and the same applies to politics.

"Sir, last night, while reading the Political Quarterly, I came across a good passage. It says:

'An eloquent picture of the subjection of Government to the bombardment of group interests is drawn in the grain-growers guide for Western Canada of 1913, under the heading of "don'ts for grain growers".—"Don't agitate for lower tariff duties because you will offend the Canadian Manufacturers' Association. Don't agitate for lower freight rates, because you will offend our three great railway companies. Don't agitate for cheaper money, because you will offend the Banker's Association. Don't complain about the higher price of lumber, because you will offend the lumbermen's associations. Don't complain about the high rate of interest you pay on mortgages, because you will offend the loan and mortgages companies. Don't advocate co-operative stores because you will offend the retail merchants' association."

Then, what are we to do in this world? That is the question that I have to face. Gandhiji was faced with the same opposition throughout his life because his whole programme was against vested interests. If he wanted to introduce khadi, the mill-owners were against it. If he wanted to remove untouchability, the Sanatanists were against it. Similarly, there were so many hundreds of things which Gandhiji had to fight for and therefore, I say, unless you are prepared to move forward and not care for those vested interests in the face of the bombardment, you will not be able to make your country prosper. Sir, one great important thing that Gandhiji has taught us is to do what we feel right and not simply fold our hands and sit exasperated. That is what we are trying to do. This Government which represent the ideals of such a man as Gandhiji cannot sit quiet, because that would be doing an injustice not only to our country, not only to our own people but to the great soul which guided us in the cause of the country's freedom. Therefore, I do not think that we can sit tight. We have to change the trend of things. That task is of course very difficult but we have to shoulder it and carry it to its logical end so that justice may be done to the common man.

"Sir, one question has now been sent about the arrears of rent. This question was much discussed. While in the Northern India Bills, provision is made that Government should collect the rent *in toto* and that fifty per cent of it should be paid to the zamindar after deducting the collection charges, etc., and the

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remainder should be taken over by the Government, we have been advised that this kind of provision will be subject to objection and therefore we deeply considered this question and we decided that the arrears of rent should be reduced in the same way as current rent and we provided for the payment of the reduced rent for faslis 1356 and 1357 and the rest of the outstanding arrears will be wiped out under the present Bill. We have also provided that it is open to the tenant to clear the outstanding arrears within two years from the time of the notification. I know that a number of landholders are misusing the money collected for the current year by rent and then it is being credited for old arrears. There are certain people doing like that and also certain people, because of the law of limitation, are forced to go to the court of law. I will once again examine all these aspects and will take such steps as will be necessary. I now move that the Bill be passed into law."

MR. PRESIDENT :—" The question is—

' that the Madras Estates (Abolition and Conversion into Ryotwari) Bill, 1947 (L.A. Bill No. 37 of 1947) as passed by the Assembly be passed into law '."

The motion was carried and the Bill was passed into law.

(2) THE MADRAS BUILDINGS (LEASE AND RENT CONTROL) AMENDMENT BILL, 1948 (L.A. BILL NO. 24 OF 1948).

THE HON. DR. S. GURUBATHAM :—" Sir, I move—

' that this House concurs in setting up a Joint Select Committee of the two Houses consisting of 21 members (14 members from the Assembly and 7 members from the Council) to consider the Madras Buildings (Lease and Rent Control) Amendment Bill, 1948 (L.A. Bill No. 24 of 1948). ' "

MR. PRESIDENT :—" Does the Hon. Minister want to explain the objects or the provisions of the Bill? "

THE HON. DR. S. GURUBATHAM :—" Sir, we are only appointing a Select Committee to go into the whole question. The Bill was published in April and though we did not call for any criticism from the public, we have received a number of representations. Quite a big number of voluminous representations have come to us and they have to be considered. I do not want to go into the details of the Bill at this stage and after the report of the Select Committee is received, I will go into the details. I only move the motion that seven members be nominated from this House."

MR. PRESIDENT :—" The question is that this House concurs in setting up a Joint Select Committee of the two Houses consisting of 21 members (14 members from the Assembly and 7 members from the Council) to consider the Madras Buildings (Lease and Rent Control) Amendment Bill, 1948 (L.A. Bill No. 24 of 1948). "

The motion was carried.

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SRI R. SURYANARAYANA RAO :—“ Are we at liberty to discuss the principles? ”

MR. PRESIDENT :—“ Whether the hon. Members agree with the Bill or not, they can say.”

THE HON. DR. S. GURUBATHAM :—“ I now move—

‘ that the following members of this House be nominated to the said Joint Select Committee :—

The Hon. Dr. S. Gurubatham.

The Hon. Sri K. Madhava Menon.

Sri S. B. Adityan.

Dr. Syed Tajuddin Sahib Bahadur.

Sri K. Natarajan.

Dr. Sir A. Lakshmanaswami Mudaliyar.

Sri S. Jayarama Reddi.’ ”

MR. PRESIDENT :—“ The question is—

‘ that the following members of this House be nominated to the said Joint Select Committee :—

The Hon. Dr. S. Gurubatham.

The Hon. Sri K. Madhava Menon.

Sri S. B. Adityan.

Dr. Syed Tajuddin Sahib Bahadur.

Sri K. Natarajan.

Dr. Sir A. Lakshmanaswami Mudaliyar.

Sri S. Jayarama Reddi.’ ”

The motion was carried.

(3) THE LAND ACQUISITION (MADRAS AMENDMENT) BILL, 1948
(L.A. BILL No. 26 OF 1948).

THE HON. SRI KALA VENKATA RAO :—“ I beg to move—

‘ that the Land Acquisition (Madras Amendment) Bill, 1948 (L.A. Bill No. 26 of 1948), as passed by the Assembly be taken into consideration at once.’

Sir, this is a short Bill intended to give power to the Government to take emergent procedure so that for certain public purposes, the land can be acquired under the Land Acquisition Act now in vogue. There are two types of acquisition, the emergency acquisition as well as the normal acquisition. Now that we have become a Positive State, we have to do many things. We have to acquire certain lands and give them to the Harijans for constructing houses and if the normal procedure is to be followed, the proposals made in 1942 will not be executed even in 1948 because a long procedure has to be gone through in this matter. Therefore, Sir, we have thought it necessary to amend the Act. Under clause 2, certain lands can be acquired by means of a swifter process. I think there would be no objection to take such a step because it will be

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useful to the public; it will be for a public purpose, for the purpose of any library or educational institution or for the construction, extension or improvement of any building or other structure in any village for the common use of its inhabitants or for any godown for any society registered or deemed to be registered under the Madras Co-operative Societies Act, 1932, or any dwelling house for the poor or any well, irrigation tank, irrigation or drainage channel or any road. These are all public purposes for which the land may be required. I, therefore, request the House to pass the Bill."

MR. PRESIDENT:—"The question is—

'that the Bill further to amend the Land Acquisition Act, 1894, in its application to the Province of Madras be taken into consideration at once.'"

The motion was carried.

Clause 2.

MR. PRESIDENT:—"The question is—

'that clause 2 do stand part of the Bill.'

There are no amendments."

Clause 2 was carried.

Clause 1.

MR. PRESIDENT:—"The question is—

'that clause 1 do stand part of the Bill.'"

Clause 1 was carried.

Preamble.

MR. PRESIDENT:—"The question is—

'that the preamble do stand part of the Bill.'"

The preamble was carried.

THE HON. SRI KALA VENKATA RAO:—"I now move—

'that the Bill be passed into law.'"

MR. PRESIDENT:—"The question is—

'that the Bill further to amend the Land Acquisition Act, 1894, in its application to the Province of Madras be passed into law.'"

The motion was carried and the Bill was passed into law.

(4) THE MADRAS PROHIBITION (SECOND AMENDMENT) BILL, 1948
(L.A. BILL NO. 27 OF 1948).

* THE HON. DR. S. GURUBATHAM:—"Sir, I move—

'that the Madras Prohibition (Second Amendment) Bill, 1948 (L.A. Bill No. 27 of 1948), as passed by the Madras Legislative Assembly, be taken into consideration at once.'

"Sir, this is purely a permissive Bill. Since total Prohibition has been introduced in the Presidency, the old Madras Abkari Act

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goes out of force. There are moreover a few omissions in the original Act, which we would like to rectify. The Madras Prohibition Act empowers the Provincial Government to levy an excise duty similar to that levied on local intoxicating drugs under the Madras Abkari Act. Clause 1 is a formal one. Clause 2 contains the main provision of the Bill. The Madras Prohibition Act empowers the Provincial Government to exempt any specific liquor or intoxicating drugs from the provisions of the Act, and also to issue a licence for the manufacture, import, sales, etc., of any liquor or drug required for bona fide medicinal, scientific, industrial or like purposes. Under the above provision of the Act, the Government have exempted medicinal preparations containing spirit, subject to certain conditions. Licences have also been issued for the manufacture of rectified or methylated spirit, etc. In addition under section 20 of the Prohibition Act, permits are issued to Europeans above 21 years of age, for the consumption of foreign liquor or Indian-made foreign spirits; liquor imported from overseas will be liable only to a customs duty, and it is necessary to make a specific provision to levy a duty on liquor and drugs manufactured in this Province or imported from other Provinces. The Madras Abkari Act contained a provision for the levy of an excise duty or a countervailing duty on all excisable articles. This Act, however, ceases to be in force in the ordinary areas of this Province, with effect from the date on which Prohibition was introduced. We, therefore, considered it necessary to introduce a similar provision in the Madras Prohibition Act. And clause 2 provides for this. Clause 3 is intended to empower the Government to prescribe the rates at which the duty may be levied. The whole measure is, as I already stated, a simple one. And I, therefore, request the House, through you, Sir, to accept my motion.

“ Before I resume my seat, I would like to mention in this connexion, that this Bill has nothing to do with the wine used for religious purposes. The Bill before us is purely a permissive Bill, which empowers the Government to levy a duty on rectified spirit, methylated spirit and things like that, especially methylated spirit which is now being used for industrial purposes, and medicinal preparations.

“ I move Sir—

‘ that the Bill be taken into consideration ’.”

The motion was put and carried.

Clauses 2, 3, 1 and the Preamble were put and carried.

THE HON. DR. S. GURUBATHAM :—“ Sir, I move—

‘ that the Bill be passed into law ’.”

The motion was put and carried, and the Bill was passed into law.

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(5) THE COTTON GINNING AND PRESSING FACTORIES (MADRAS AMENDMENT) BILL, 1948 (L.A. BILL No. 28 OF 1948).

* THE HON. SRI K. MADHAVA MENON :—“ Sir, I move—

‘ that the Cotton, Ginning and Pressing Factories (Madras Amendment) Bill, 1948 (L.A. Bill No. 28 of 1948), as passed by the Legislative Assembly, be taken into consideration at once.’

“ This is a short and non-controversial Bill. We have got the Cotton Ginning and Pressing Factories Act of 1925, according to which these factories were required to maintain certain registers and keep some records of the quantity of cotton ginned and pressed, the system of marking, etc., and also to send on some weekly reports, etc. It was one of the recommendations of the Indian Central Cotton Committee that the present Cotton Ginning and Pressing Factories Act does not contain any provision which empowers the Government to check malpractices, such as watering, and trying to mix different varieties of cotton, false packing, and non-removal of foreign matter, etc., or to penalize the use of faulty scales and weights, so much so, it affects the vital reputation of our cotton in commercial circles, if these malpractices are not checked. Moreover, the original Act does not contain a provision to deal with these. This Bill was prepared long ago, but for some reason or other, it has had a chequered career. The Advisers’ regime thought that the Bill ought to be deferred till after the end of the war, for some reasons which I do not know. I may say, that it was practically during the war-time, that the corruption was rampant very much, in the areas of Tirunelveli, Coimbatore and Tiruppur. And on the 8th of October 1942, the Advisers’ regime decided that this Bill should be deferred. Now that the war is over, we have taken it, because we thought it necessary to have sufficient powers to prevent these malpractices in ginning and pressing factories. So, the original Bill is now sought to be amended suitably, and I believe the sections embodying the amendments have been printed and circulated to the hon. Members of this House, and they could easily see what the purpose of these amendments are.”

The motion was put and carried. The Bill was taken into consideration.

Clauses 2, 3, 4, 5, 6, 7, 8, 9, 1 and the Preamble were put one by one and carried.

THE HON. SRI K. MADHAVA MENON :—“ Sir, I move—

‘ that the Bill be passed into law.’

The motion was put and carried and the Bill was passed into law.

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(6) THE MADRAS AGRICULTURISTS' RELIEF (AMENDMENT) BILL, 1948
(L.A. BILL No. 4 OF 1948).

* THE HON. SRI K. MADHAVA MENON :—“ Sir, I move—
‘ that the Madras Agriculturists’ Relief (Amendment) Bill, 1948 (L.A. Bill No. 4 of 1948), as passed by the Legislative Assembly, be taken into consideration at once.’”

“ Sir, I introduced this Bill originally at the first stage, in this House, when I requested this House to concur with the Legislative Assembly, in the matter of the appointment of a Joint Select Committee to report on this Bill. The original Agriculturists’ Relief Act was passed in 1938, with the consent of the Governor and published in the Gazette in that year. Thereafter, various defects in the working of the Act were pointed out by courts, and particularly the High Court suggested various amendments to the Act. And these amendments were in their making during the Advisers’ regime, which made some memoranda or suggestions for certain amendments, but deferred them during the war, saying that it is a matter to be taken up by a popular Ministry. Then, after the Congress Government came to office, my hon. Friend, Mr. P. S. Kumaraswami Raja, took up the question, and collected data that were necessary for making the necessary amendments in the original Act. So, I do not claim complete originality for all the amendments that are before you now. It is a legacy, not a bad legacy as was suggested by my hon. Friend, Mr. Karanth, in the Lower House, but really a good legacy. The object of the original Act was to reduce the heavy burden of debts which before the passing thereof, remained at about Rs. 263 to Rs. 267 crores. Even after the passing of that Act, the amount is still stationary at nearly the same level, and we have been able to reduce it by only about Rs. 9 to Rs. 10 crores. Even under the Bill now before you, I do not think much could be done by way of relief to the agriculturist. What is sought to be done in this Bill is only to remove some ambiguities that were pointed out in the original Bill by the courts. Some other doubts arose later, and also certain decisions were made, which showed that there was something against the intention of the Legislature, in the working of the Act. For, the courts could not but consider the Act, as it stood, and according to their own light. So, all these amendments were felt to be a necessity, to carry out the original intention of the Legislature. All the amendments except the amendment which seeks to insert a new section 9-A, relate to debts which were in existence prior to 1938, and still subsist, and not to any debts which were created subsequent to 1938. Of course, in all legislations, involving dates, there will be some hardship to a few persons who have lent money, but our attempt has been to reduce the hardship as much as possible, and give some relief to agricultural debtors.

“ Originally, the cases of the usufructuary mortgagees who were in possession of the property, were beyond the scope of the Act, when no rate of interest had been stipulated. The present amendment makes it possible to bring these mortgages also within the purview of this Bill. And the Joint Select Committee sat for

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days together on the subject, and arrived at the present amendment finally. Somehow, in the Assembly, this clause was debated upon, for some days. So, the Bill has been so sufficiently well thrashed that it has become so good that this House can easily give its assent to this Bill. Moreover, no hon. Member of this House has even thought of an amendment to any of the suggestions made by the Legislative Assembly. So, I need not labour upon the point any further than point out merely the salient features of the Bill, as it emerged from the Select Committee.

"The original Bill with notes on clauses and an annexure giving a comparative view of the existing sections and the sections embodying the proposed amendments and the report of the Select Committee have been circulated to the Members. Therefore, I do not want to traverse the whole ground once again. I will only refer to the salient changes made by the Joint Select Committee. 12-30 p.m.

"Section 3 of the Act.—(1) According to the existing proviso (A) to section 3 (ii) (d) of the Act, a person shall not be deemed to be an agriculturist if he has in *either of the two financial years* ending 31st March 1938 been assessed to income-tax. With reference to the suggestion of the Select Committee, an agriculturist who has been assessed to income-tax in *both the financial years* should be exempted from the provisions of the Act. The object of the Select Committee was to widen the scope of the Act so as to give relief to more agriculturist debtors.

"(2) Under proviso (B) to section 3 (ii) (d) of the Act, a person who has *within the two years* immediately preceding 1st October 1937 been assessed to profession tax on a half-yearly income of more than Rs. 300 (this limit has been raised to Rs. 600) shall not be deemed to be an agriculturist. According to the suggestion of the Select Committee, proviso (B) should apply only to a person who has been assessed to profession tax *in all the four half-years* immediately preceding 1st October 1937. If an agriculturist had been assessed to profession tax even for one half-year within the two years, he was not deemed to be an agriculturist and therefore he did not get the relief. The Select Committee has provided that, unless a person has been assessed to profession tax in all the four half-years, he will be deemed to be an agriculturist and therefore will get relief.

"(3) Under proviso (C) to section 3 (ii) (d) of the Act, a person who has *within the two years* immediately preceding the 1st October 1937 been assessed to property or house tax shall not be deemed to be an agriculturist. The Select Committee decided that the proviso should apply only to a person who has *in all the four half-years* immediately preceding the 31st October 1937 been assessed to property or house tax.

"(4) A new definition of interest has been introduced in the original Bill. According to this definition, payments in kind made in excess of the borrowing will also come within its scope. An Explanation has also been inserted that in the case of usufructuary mortgages the rent and profits will constitute the interest, and in case where the property is leased back to the mortgagor the

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rent due to the usufructuary mortgagee under the lease will be regarded as the interest on the mortgage debt. This explanation regarding usufructuary mortgages has been omitted by the Select Committee, as it has been embodied in section 9-A.

"Sir, the necessity for it arose in this way. There were many cases of usufructuary mortgages where no interest was stipulated. The High Court held that the rent of the land was not interest under the Transfer of Property Act. The object of the Act that where interest is provided, it should apply was defeated because of the interpretation that rent did not constitute interest when a land was mortgaged. The object of the amendment is to give effect to the intention of the Legislature.

"*Clause 6 (new section 9-A).*—Sir, the existing section 10 (2) (i) of the Act exempts usufructuary mortgages where no rate of interest is stipulated from the operation of the provisions of sections 8 and 9 of the Act relating to the scaling down of debts. I was a member of the Select Committee which considered the Bill of 1938. The Select Committee then excluded usufructuary mortgages where no rate of interest was fixed on the ground that it was most difficult, if not impossible to find out the amount of interest that has been paid to the mortgagee by his being in possession of the property. It was difficult to apply the principle of *damdupat* in those cases. To avoid the difficulty of calculation in the case of properties which have been mortgaged for thirty or forty years, usufructuary mortgages were left out of the Act of 1938. Now the Joint Select Committee has decided that if a usufructuary mortgage has been in existence for thirty years, the mortgage should be deemed to be fully satisfied and discharged. The value of the income from immovable property especially during the last six or seven years has been so high that not only the principal would have been paid twice over but half a dozen times over in the course of the last 25 years when the mortgagee has been in possession of the property.

"The Select Committee discussed the matter and has changed the original proposal almost beyond recognition by hedging it with a number of provisos. Usufructuary mortgages where no interest was provided were considered to be safe investments and after the Act of 1938 several transactions have taken place in the belief that they are safe transactions. Several partitions have taken place in families on that basis and shares set apart consist of usufructuary mortgages. If the rule of thirty years is applied to these things, these people will be penalized. To obviate such difficulties, we have made the necessary provisos hedging in this provision. Usufructuary mortgages in respect of property in South Kanara and certain taluks of North Malabar have been exempted from the above provisions.

"Sir, I have been receiving a lot of abuse as well as compliments for exempting the usufructuary mortgages in respect of property situated in the South Kanara district and in certain taluks of the Malabar district. The criticism has been that I and the Select Committee were ignorant of, and absolutely callous to, the

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condition of agriculturist debtors in those parts. Very recently, the Bar Associations in Mangalore and Kasaragod have written to me letters in which they say that in providing for the exemption, the Select Committee has done the wisest thing.

"The position is this. If the Bill is made applicable to South Kanara district and the taluks of Malabar, the party to be benefited will be the landlords and not the tenants. There is a sort of tenancy there, particularly in North Malabar, which has been described by the High Court as usufructuary mortgages. It is not the kanam tenancy of South Malabar. The tenant advances large amounts to the landlord and the landlord gives the property to the tenant as a sort of tenancy. If the debt is wiped off, the benefit will go to the landlord and not to the tenant. There may be a few cases both in South Kanara and North Malabar of usufructuary mortgages which are not exactly like this tenancy. When we consider the question as a whole and see who will derive greater benefit, we find that it is the landlords. The tenants will stand to lose, but the intention of the Act is to protect the tenant. So the Select Committee thought that by providing for exemption they will be protecting a large percentage of agriculturists, even though a few agriculturists may be deprived of the relief afforded by the Act.

"Besides, according to the law of inheritance prevailing in Malabar and South Kanara, which is known as Marumakkattayam law and Aliyasantana law, respectively, the sale of property could not be effected by the manager without the consent of all the members of the family. So the managers of families used to raise money on property by means of what is known as *arwar* which does not require the consent of all the members. More harm than good will be done to the agriculturist debtors of Malabar and South Kanara by bringing those portions within the scope of this Bill. That is the reason why the Select Committee provided for the exemption.

"Exemption is also given to the property where during the period after 30th September 1937 and before 30th September 1947 the equity of redemption has devolved either wholly or in part on a person or through a transfer *inter vivos* either from the original mortgagor or from a person deriving title from or through such mortgagor otherwise than by a transfer *inter vivos*. Exemption is also provided for in the case where the equity of redemption in the property belonged to or devolved on two or more persons and where any one of them has redeemed the entire mortgage during the period between 30th September 1937 and 30th September 1947, and also in certain other cases.

"Clause 8 of the Bill—Section 13.—The amendments suggested by the Select Committee are consequential on the amendments suggested to provisos (B) and (C) to section 3 (ii) (d).

"Clause 12 of the Bill—New section 23-A.—In order to give the full benefits of the amendments made in favour of agriculturist debtors by the amending Act it is considered necessary to have a

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provision on the lines of section 23 of the existing Act for the setting aside of sales or foreclosures of immovable property shortly ordered before the Bill becomes law. According to the original Bill the benefit will apply only in cases of the sales or foreclosures before the commencement of the Amendment Act and which had not been confirmed before such commencement or ninety days had not elapsed from the confirmation of the sale or from the foreclosure at such commencement. The Select Committee has, however, suggested the application of the provisions in the section to sales or foreclosures effected *on or after the 30th September 1947*, because that was the date on which the Bill was published in the *Fort St. George Gazette*.

“ *Clause 14 of the Bill—New section 24-A.*—According to the Bill the new section 24-A enables the court to *reject in toto* claims based on documents which have been executed with a view to evade the provisions of the Act. The Select Committee has, however, suggested that the court should *disallow the costs only*.

“ *Clause 16 of the Bill.*—According to sub-clause (ii) of clause 11 of the original Bill the proposed amendment should apply to, among others, all suits and proceedings in which the decree or order passed has *not been executed in full* before the commencement of the Amendment Act. The Select Committee has suggested that the amendments should also apply to all suits and proceedings in which the decree or order passed has *not been satisfied in full*.

“ Sir, these are the only amendments made by the Select Committee. They are in fact only attempts made by the Select Committee to reduce the hardships as much as possible to the agriculturists.

“ There are not very many changes and I do not think that much objection will be taken by this House. My hon. Friend, Mr. Govindachari, suggested certain amendments which will certainly widen the scope of the Bill in favour of the agriculturists. I had great difficulty in the other House even with regard to the limited scope of the Bill. Though I would like to make the scope wider as suggested by him, I am afraid, it will not be possible to accept the amendments suggested by him and increase the scope of the Act. The Bill has been before the House for a long time. I would request the House that it may be taken into consideration.”

12-45
p.m.

MR. PRESIDENT:—“ Just one point. I suppose, before section 9-A, relating to usufructuary mortgage is made to apply, you must be an agriculturist.”

* THE HON. SRI K. MADHAVA MENON:—“ Yes, Sir.”

MR. PRESIDENT:—“ In the case of usufructuary mortgages pure and simple usually there is no time fixed for redemption.”

* THE HON. SRI K. MADHAVA MENON:—“ It is only in Malabar and South Kanara that a time is fixed.”

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MR. PRESIDENT :—“ But according to the Limitation Act, sixty years is the period fixed, and beyond that there can be no redemption.”

* THE HON. SRI K. MADHAVA MENON :—“ Of course there is no remedy for the mortgagor; because the claim will be barred by limitation.”

MR. PRESIDENT :—“ I just want to know whether Government's attention was drawn to this point and what their idea was in this connexion.”

* THE HON. SRI K. MADHAVA MENON :—“ We had to consider that point specifically because the hon. Mr. Bhashyam moved an amendment that instead of thirty, fifty years be substituted.”

MR. PRESIDENT :—“ Then the remedy for redemption is lost. There are certain cases where villages are put in possession of another man. A puts B in possession under these conditions : you will enjoy the village for a period of 120 years in full discharge of both principal and interest. At the end of 120 years, give it back free from encumbrances.”

* THE HON. SRI K. MADHAVA MENON :—“ That is a common thing in certain portions of the Tamil Nad and Malabar also; they are called ‘ otthi ’. The property is given in lieu of interest and also portions of the principal. After thirty years, if principal and interest are paid, it will go back; but automatically at the end of 120 years, the property will revert back to the mortgagor. The idea of the Government is that such mortgages will certainly come under section 9-A and become discharged. The expression ‘ in spite of a contract to the contrary ’ is not in section 9-A. Whether that will make a contract get out of the provisions of the Act, I cannot say now; that was not my intention anyhow.”

MR. PRESIDENT :—“ Have you defined ‘ usufructuary mortgage ’ here? ”

* THE HON. SRI K. MADHAVA MENON :—“ Yes.”

MR. PRESIDENT :—“ I find it is not defined; the words ‘ usufructuary mortgage ’ are not used in the Act at all. The words used are ‘ Where the mortgagee is in possession of the property ’ both in the original Act and also here. Very well; we shall leave it to the courts and the lawyers.

“ The question now is—

‘ that the Bill further to amend the Madras Agriculturists' Relief Act, 1938, as passed by the Assembly (Bill No. 4 of 1948) be taken into consideration at once ’.”

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* THE HON. SRI K. MADHAVA MENON:—“ Let me point out, Sir, at page 4, bottom, in the explanation to section 9-A, it is stated :

“ *“ Usufructuary mortgage ” in this section means any mortgage by virtue of which the mortgagee is in possession of the property mortgaged, where no rate of interest is stipulated as due to the mortgagee.* ”

SRI K. NATARAJAN:—“ I would draw your attention, Sir, to the Bill as amended by the Select Committee which was circulated to us. In clause 2, sub-clause (iii), this is what you find :

‘ (iii) in the same clause, for proviso (d), the following proviso shall be substituted, namely :—

(D) is a landholder of an estate under the Madras Estates Land Act, 1908, or of a share or portion thereof, whether separately registered or not, in respect of which estate, share or portion any sum exceeding five hundred rupees is payable as peshkash, or any sum exceeding one hundred rupees is payable under one or more of the following heads, namely, quit-rent, jodi, kattubadi, poruppu or other due of a like nature, or is a jammi . . . etc.’

The Estates Land Act has been repealed to a very great extent and the Bill has been passed into law just now. I want to know whether this clause must not be properly modified to suit it. Under the Act as passed, many estates have gone and no question of peshkash arises in their case.”

MR. PRESIDENT:—“ Do you think it is necessary that the Estates Land Act must be in force? ”

SRI K. NATARAJAN:—“ It is not in that view I say it. The effect of the Act as now passed is to retain what are called the 1936 inams. In those cases, quit-rent may be a term which is not obsolete. Similarly, jodi is a term which is not obsolete; but so far as estates which have been abolished are concerned, those terms will be obsolete. In section 3 (ii) of the original Act, ‘ agriculturist ’ is defined as a person who (a), (b), (c), (d) . . . with these provisos :

‘ Provided, that a person shall not be deemed to be an agriculturist if he—

(D) is a landholder of an estate under the Madras Estates Land Act, 1908, or of a share or portion thereof in respect of which estate, share or portion any sum exceeding Rs. 500 is paid as peshkash or any sum exceeding Rs. 100 is paid as quit-rent, jodi, kattubadi, poruppu or the like, etc.’

So, such a person will be exempted. Now, we have abolished a large category of such people, and who all remain are the persons holding inams under what may be called the 1936 inams. In the case of other ryotwari landholders, assessment is imposed; and so

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in the case of these people, there must be some assessment hereafter as a consequence of the new Act. First of all, it has got to be notified and then assessment is to be imposed. Therefore, I suggest some alteration has to be made in this Bill in order to suit the position which has arisen as a result of the other Bill being passed to-day. This clause may, therefore, remain as it is, or it may be suitably amended in the course of a fortnight or so, subject to the other Act being sanctioned by the higher authorities. This Bill may lie over till that time. It is a patent defect, although it is not a serious objection. Having made the suggestion, I leave it to the Hon. Minister who is in charge to consider the suggestion, and find out what suitable amendment should be made. This 'peshkash' occurs everywhere."

MR. PRESIDENT :—" But the new Act now passed does not become law until notification is made; it does not apply to a particular estate until notification is made. And till then, all these things are supposed to be there."

SRI K. NATARAJAN :—" If this Bill is passed in the form in which it has come from the Assembly, it may not be quite in order in this sense. We have not taken cognizance of the Act that has been passed to-day. There are certain enactments which say 'in spite of this law or any other law which may alter, cancel or modify, . . . etc.' and they provide for such alterations to be made. There is no such provision here. It is not as if this Bill should be passed to-day; it may wait for even two weeks until a logical amendment can be framed and a good Bill is presented before this House. The Bill need not be first passed in the Legislative Assembly; it may be introduced in the Council here and afterwards the Assembly may accept it."

" Secondly, Sir, so far as usufructuary mortgages are concerned, I was not able to understand. Mr. Madhava Menon said that no term is fixed in usufructuary mortgages; I do not know if that is so in Malabar; but in Tamil Nad, it is called 'otthi'. In such cases, the wording used to be 'the interest being equivalent to the income from the property.' And even there, option is given to the mortgagor to pay the amount at the end of two, five or six years as the case may be. Where the sum is large, they put in a longer period and where the sum is small, they fix a smaller period. And sixty years will be the period fixed for redemption."

MR. PRESIDENT :—" But under the Transfer of Property Act in usufructuary mortgages pure and simple no stipulation for repayment is made. Whatever it is, my point is: suppose a man has been in possession for sixty years and the right of redemption is gone, what will happen?"

SRI K. NATARAJAN :—" There is no chance of redemption of the property. The person will become the absolute owner of the property. Such cases also must be considered by the Hon. Minister. The President made a reference to certain mortgages. They are

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called *arakattu* mortgages in the Tanjore district and in their case, both the interest and a portion of the capital are reduced by enjoyment of the property."

1 p.m. MR. PRESIDENT :—" Such detailed stipulations may be there or they may say the total amount due is so much. They may enjoy the property for thirty years in lieu of both the capital and the interest. At the end of that period, the mortgagor will be entitled to get back the property."

SRI K. NATARAJAN :—" If both the principal and the interest are wiped out then the mortgagor will be entitled to get back the property."

MR. PRESIDENT :—" What I am saying is, the period fixed was 100 years. The man is in possession for fifty years. The present Bill which we are going to pass says that if he is in possession of the property for thirty years, the property must be given back to him. Does the provision apply to cases where it is stipulated that a man must be in possession of the property for 100 years so that the principal and the interest can be wiped out?"

SRI K. NATARAJAN :—" Sir, if this Bill is passed, it would seriously interfere with all such mortgages."

MR. PRESIDENT :—" Will the present Bill apply?"

SRI K. NATARAJAN :—" Sir, the Bill as it is will apply to such cases, and it will be a serious thing for the Hon. Minister to consider them."

" As regards the period of thirty years, I must say that originally it was 25 years. It was extended to thirty years by the Select Committee and the Hon. Minister has been pleased to adopt it. There is one other thing which is to be considered in that connexion, viz., the date 1st October 1937 when the Agriculturists' Relief Act came into existence and whether it should be taken as the starting point. Both under sections 8 and 10 of the Agriculturists' Act, certain calculations have been made. Now, suppose after 1st October 1937 an usufructuary mortgage is created, what are you going to do with it? There is that lacuna."

MR. PRESIDENT :—" I do not think it will apply to such cases which arose after 1st October 1937."

SRI K. NATARAJAN :—" There is no such provision, Sir."

MR. PRESIDENT :—" It is in the old Act."

SRI K. NATARAJAN :—" That is not there."

MR. PRESIDENT :—" What I am saying is that if you remove that clause in the old Act, then it will apply to usufructuary mortgages."

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SRI K. NATARAJAN :—“ Sir, if that clause is removed, the present Bill will serve no purpose. Suppose a usufructuary mortgage is created after 1st October 1937. What are you going to do with it? To what extent it is going to affect it? What provision you have made for it? ”

MR. PRESIDENT :—“ At any rate, there must be some comprehensive provision.”

SRI K. NATARAJAN :—“ Anyhow, it must not be left to the varying decisions of the courts.

“ With these few remarks, I close my speech.”

MR. PRESIDENT :—“ This is only an academic discussion. Is Mr. Narayana Menon going to speak? ”

SRI M. NARAYANA MENON :—“ Yes, Sir.”

MR. PRESIDENT :—“ The unfortunate thing is that we are lawyers. We are trying to understand everything.”

DR. V. K. JOHN :—“ Being a lawyer is it a trouble, Sir? ”

MR. PRESIDENT :—“ I would not have felt it, had I not been a lawyer.”

SRI M. NARAYANA MENON :—“ Sir, clause 9-A (1) says :

‘ Where a usufructuary mortgage was executed at any time before the 30th September 1947 and the mortgagee is in possession of the property mortgaged to him, the mortgagor shall be entitled to redeem the property, notwithstanding that the time, if any, fixed for redeeming the mortgage has not arrived.’

There is that provision. So that provision will apply to usufructuary mortgage created before the 30th September 1947. I do not know how far the point raised by my hon. Friend, Mr. Natarajan, can be considered. It is better to leave it to the courts.

“ Another point was raised. I do not think it is absolutely correct. In clause 2 (D) there is the definition of the word ‘ Agriculturist ’. The agriculturist ‘ is a landholder of an estate under the Madras Estates Land Act, 1908, or of a share or portion thereof, whether separately registered or not, in respect of which estate, share or portion any sum exceeding five hundred rupees is payable as peshkash ’ Sir, I am speaking about that. That definition is necessary and should be retained. It cannot be altered in any manner as the hon. Member has said. We have to apply the Act of 1937 to debts which were in existence prior to 1937 and also the right to scale down debts. This is all I want to say.”

THE HON. SRI K. MADHAVA MENON :—“ Is Dr. John going to speak? ”

MR. PRESIDENT :—“ I am sure Dr. John is not going to be guided by the wish of the Hon. Minister.”

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* DR. V. K. JOHN :—“ Sir, this Bill was passed by the Assembly and the attitude of the Government is that we should not have any amendments passed by this House. Therefore, there is not much advantage in discussing even the general principles of the Bill.”

THE HON. SRI K. MADHAVA MENON :—“ No amendment has been given.”

DR. V. K. JOHN :—“ Sir, what is the use of giving amendments when we know for certainty that they will not get through. The Government are not prepared to refer any of our amendments to the Assembly. That is the reason for our not giving any amendment.”

MR. PRESIDENT :—“ We always live in hope. Who knows better times will not come? ”

DR. V. K. JOHN :—“ Sir, this is a question which affects the dignity of this House. After all, we are spending our very valuable time here. The attitude of the Government makes me feel that the time I spent here can be spent very usefully elsewhere. And one should not feel that after all the time spent here is a waste. That is the impression sometimes created in the mind of every member on this side. We are perhaps hoping against hope thinking that the Government also will feel our position. After all, a statute has created this House and this House has to function. I do not intend to say this because the Hon. Minister is perhaps surprised that I should stand up and speak on this Bill. Anyway, as you said, let us hope that something better is in store for the future and let us co-operate with the Government not only in this Bill but also in other Bills unless a very serious situation arises.

“ Sir, this Bill contains various provisions, some of which are very, very objectionable. By saying this, I do not mean any ill-will towards the agriculturists. On the other hand, the Opposition is more anxious than the Government to help the poor agriculturists and if any relief can be given to them, it should be given to them. And if we had the power to vote money, we would have certainly spent more money on agriculturists either to relieve them of their debts or to assist them in cultivating their lands. After all, the back bone of this Province and the back bone of the country is the agricultural industry, which is very much neglected. Now, Sir, the question should be looked at from the point of view of an agriculturist

“ Sir, I am disturbed by Mr. Muthuranga Mudaliyar's conversation and unless he finishes it, I am not going to proceed any further.”

MR. PRESIDENT :—“ The hon. Member says that Mr. Muthuranga Mudaliyar is disturbing him.”

DR. V. K. JOHN :—“ Sir, when this Bill was passed in 1938, people who were very sympathetic with the agriculturists felt or

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apprehended that the credit of the agriculturists might go up because the Bill provided that the agriculturist need not pay his just debts. If only the Bill provided that usurious interests need not be paid, it would have been a different matter altogether. The Bill also provided that, debts which under the ordinary law of the land should be repaid, need not be paid at all and the result was, nobody was willing to lend any money to the agriculturists and they were injured by the loss to their credit. That was the dangerous thing because at that time we did not even help the agriculturists by organizing co-operative societies. Sir, when you take away the credit from this important section of the public, viz., the agriculturists who till the land, it is but necessary to provide other sources of credit for them. One way to provide credit is to organize co-operative societies all over the province, provide them with sufficient funds and ask them to lend to agriculturists monies for improving and cultivating their lands and marketing the produce. Nothing or very little has been done so far. Even to-day very little is done by co-operative societies to help agriculturists. Most of them are helping artisans—weavers and others. I must pay a complement to the Registrar of Co-operative Societies who is doing his very best to organize and assist co-operative societies. But up to this time he has not succeeded in organizing and popularising co-operative societies among agriculturists. They have lost their credit facilities from the public and they have no other source from which to obtain credit.

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“ Clause 6 of the Bill introduces a new section 9-A in the Madras Agriculturists' Relief Act, 1938. Sub-section (2) of that section says that a mortgagor shall pay to the mortgagee the difference between the principal amount and an amount bearing to the principal amount the same proportion as the period during which the mortgagee has been in possession bears to thirty years. If a property is mortgaged for Rs. 30,000 and 29 years have elapsed, mortgagor need pay only Rs. 1,000 to redeem his property. Sub-section (3) provides that if a mortgagee has been in possession of a mortgaged property for thirty years, the debt shall be deemed to have been discharged. Due to unavoidable reasons I could not be present when the Hon. Minister made a speech in introducing the Bill. But I asked my friend sitting near me whether he explained in detail the number of usufructuary mortgages to which this Bill would apply, the number of mortgages in each district, the amount involved, the term normally outstanding, and the circumstances under which a large majority of the mortgages were executed. I am told he did not give any information on these matters. I can say from experience gained in my profession that a large majority of usufructuary mortgages are executed and lease-backs obtained due to the kindness and sympathy of the creditor.”

MR. PRESIDENT :—“ The hon. Member says that the predominant idea of a creditor in accepting a usufructuary mortgage is to help the debtor. But my experience is entirely different.”

* DR. V. K. JOHN :—“ Agriculturists need money but they do not want to sell away their property. The creditors lend them on

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usufructuary mortgage, as simple mortgage has its own drawbacks. In a majority of cases there is a lease-back. From whom does the agriculturist borrow? He does not go to a sowcar, money-lender or banker, and bankers very rarely help agriculturists. He goes to a friend, a man in the village or near the village and asks him to lend. At times he even puts pressure through friends. The loan may be for performing his daughter's marriage, for assisting another man with a loan or for some other purpose. Generally the amount is Rs. 500, 1,000 or 2,000 and not many many thousands. The friend lends out of sympathy. After some time the money is repaid. I can assure the House that the morality of the agriculturist is very much higher than that of the trader. The agriculturist is anxious to repay his debt. Ordinarily he keeps his word. Even if there is no pro-note or document, he will keep his word and maintain his honour. In a village, if one utters a lie, he will be the target of ridicule. In a court of law the debtor may cheat the creditor as the judge acts on artificial evidence but the villagers know the truth. After some time if an unsecured debt is not repaid, the borrower executes an usufructuary mortgage instead of an outright sale, and the lender executes a lease-back. A hard-hearted creditor can go to a court, file a suit and recover the amount. But a sympathetic creditor takes an usufructuary mortgage and gives a lease-back. What does this Bill provide for? The draftsman of the 1938 Act knew the existence of usufructuary mortgages."

MR. PRESIDENT:—"I may just inform the hon. Member what the Hon. Minister said in this connexion. Usufructuary mortgages also would have been included in the 1938 Act but for the difficulty in finding out the rate of interest. In some usufructuary mortgages, the rate of interest was not stipulated. So it was not possible to find out how much had been paid to the mortgagee. Even in such cases the Hon. Minister thinks that the thirty-year period provided in the Bill is so ample that within that period the mortgagee could have realized double the mortgage amount from the income derived from the property. This follows more or less the *Damdapat* principle adumbrated in the 1938 Act."

DR. V. K. JOHN:—"I am obliged to you, Sir. But all this is thinking in the air. Have statistics been collected? Are the Government who are spending thirty crores on Government servants unable to get statistics for them to act upon? Could they not have made an investigation of usufructuary mortgages at least in one thousand or one hundred villages and placed the result on the table of this House? The Collectors should be able to collect all instances of usufructuary mortgages among agriculturists. The Minister thinks that he will win a lot of popularity by bringing in a measure of this sort. He does not know how much unpopularity such a measure creates. But I am not on the question of popularity or unpopularity; it is the concern of the Government. But I am on this point. The Government are proceeding on

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pure imagination, without any basis or statistics whatsoever. They destroy the credit of the agriculturists without providing alternative sources of credit. I want the Government to be more sympathetic to the agriculturists. When they are spending 17 crores on intermediaries like the zamindars, why should they not spend at least 5 crores to relieve agricultural indebtedness? Provide co-operative societies with sufficient funds even on the assumption that the money is lost and ask them to assist agriculturists. After all, the money is not lost. It is spent on poor and deserving agriculturists. After these two pieces of legislation, one in 1938 and the other in 1948 for reducing debt in some cases and wiping it out in other cases, does the Hon. Minister think that any one in this province will hereafter lend to agriculturists? What is the idea in applying one rule to everybody? There may be a kind man who has taken an usufructuary mortgage at a very low rate of interest"

MR. PRESIDENT :—"Is the Hon. Member likely to finish in a few minutes?"

DR. V. K. JOHN :—"I would require more than a few minutes."

MR. PRESIDENT :—"The hon. Member can continue after lunch."

(After lunch—2-30 p.m.)

* DR. V. K. JOHN :—"Mr. President, before we adjourned for lunch, I was on the question whether co-operative credit societies have been organized and whether they are functioning properly in the villages which will be affected by this Bill and if the Government have not done that, they will be doing a very great injury to the agriculturists. What now happens is, this Bill takes away the right of the creditor to collect his debt from the agriculturist who is a debtor and whose credit will be lost. But still he must get on and he will have to go and borrow where he can get credit. Sir, you have some idea of the way in which money-lenders lend money in villages. The interest is taken in advance. Usurious interest is charged and very often double bonds are also taken, so that if you want Rs. 50, you will have to execute a bond for Rs. 100, and what you will get, Sir, will be capital *minus* interest taken in advance for a year or two or even three years in accordance with the whims and fancies of these money-lenders.

"Now, Sir, the effect of this legislation will be that the agricultural population who are always in need of money will be driven into the hands of these village money-lenders. This is a Bill which gives every encouragement to the money-lender and every discouragement to the agriculturist, whom, *prima facie* it seeks to assist.

"Sir, it is this aspect of the question that has been entirely lost sight of by the Government who have brought forward this

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Bill, of course, with the laudable object of assisting the agriculturists. I submit, Sir, that a definite result of this measure will be that it will not assist the agriculturist, but on the other hand it will only drag him into the hands of the money-lender who will take everything in advance, and nothing will remain and he will also take away his movables as his security. If the wife of the agriculturist has any jewels on her person, or any utensils in her house, those too will go to the money-lender, because the agriculturist has been left with no other credit, and therefore he will necessarily have to pledge these things and raise money to meet his demands. We have touched his bonds by the original Act and now we are trying to touch his security on immovable properties by means of this legislation. What else will remain? If, as I said, there are any ornaments in the person of the women in his house, those will also be pledged, if he wants a little money and they will also be lost. Sir, has the Hon. Minister for Agriculture considered for one moment what the effect of this legislation would be on the agricultural population who are always in need and who are always indebted? Sir, that is one aspect of the effect of this measure. This Bill defeats its very purpose.

“ Sir, the other aspect is this. It destroys the village economy. After all the villagers know how to manage their affairs very much better than we lawyers and Ministers in towns and cities. (The Hon. Sri K. Madhava Menon : ‘hear, hear.’) Left to themselves, they can manage their affairs much better. If they mortgage certain properties on usufructuary mortgage, they will do in accordance with the custom and usage prevailing in the village and after consulting the opinion of the villagers. It is only the money-lender who goes into the village that will create a lot of havoc and destroy the village economy, but villagers, if they transact between themselves, will not ruin their neighbours because that will be against the healthy public opinion in the village. Now what about the man who lends money on a usufructuary mortgage and who depends for his income from the usufruct? What will he do for meeting his own expenses, and the expenses of his family? How is he to meet the expenditure for the education of his children? He might entirely depend upon the rent from the lease of the property which he has taken under usufructuary mortgage. Now the Hon. Minister says, ‘Let no man receive any more rent from the lease and let the whole capital on the usufructuary mortgage be wiped out.’ Now I say that this Bill will destroy the village economy to an extent that we in this House cannot imagine. That would be the direct result of this Bill. (Interruption.)

“ Then Sir, I want to say that after this Government came into power, they have by various acts and by various pieces of hasty legislation put into disruption various industries in this Province by their policy of nationalization. They have frightened individuals and frightened private investors who employ a large number of people, by threat of expropriation of their property. For sometime they wisely did not do anything to disturb the agricultural industry and agricultural economy in this Province. But

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now they have brought forward two Bills affecting the agriculturists even. One is the Zamindari Abolition Bill and the other, the Agriculturists' Debt Relief (Amendment) Bill, both of which are going to destroy village economy. Sir, the more these Bills are rushed through the Legislature, the more they will destroy the agricultural economy of the Province and ruin tens of thousands of people who have lent money, not on usurious rate of interest but on very moderate and reasonable rate of interest on usufructuary mortgages and who live on the rent received from the lease of the property. This is a Bill which no popular Ministry should have introduced. What should they do, if they really want to help the agriculturists and to extricate them from the clutches of the money-lenders? I submit, Sir, that instead of bringing forward a measure like this, they should make some provision in law, whereby the agriculturist debtor who has given his property under a usufructuary mortgage could petition to the court to investigate the circumstances attending the mortgage and have the interest reduced if it was more than 5 per cent, and the interest paid in excess without limitation of time adjusted towards the principal. If that were done—and it is a very simple thing indeed—nobody would have suffered, except people who have advanced money at more than 5 per cent interest and that is an investigation which any court of law can be asked to make. It would not touch the poor people who lent money at a moderate and reasonable rate of interest to a friend, and whose budget depends upon their income from the property under the usufructuary mortgage. How many persons will be ruined by this measure? The Hon. Minister has not taken the trouble to estimate the amount involved, nor has he supplied this House or the other House with any figures or statistics in respect of the property or the number of cases affected by this measure.

“Now Sir, under the old Agriculturists Debt Relief Act, courts are asked to make various investigations, not on a suit, but merely on a petition. The courts will have to enquire whether a person claiming to be an agriculturist comes within the definition of the term agriculturist, because he alone is protected under that Act. Then they have to enquire into the question of the rate of interest. They are asked to make many inquiries and these inquiries have been made in terms of thousands of cases on mere petitions. Now Sir, is it difficult to provide for another inquiry like that to be made by the court on the usufructuary mortgages, where the interest charged is more than 5 per cent? In cases where the rate of interest is not mentioned, they can take into account the rent which is provided for under the lease deed and calculate on that basis, and if there is any overpayment, the excess may be taken in reduction of the principal, without limitation of time. Cannot such a simple thing be done instead of making this cumbersome provision in a separate amending Bill like this? Is it just and reasonable that a legislature sitting at Madras should upset the village economy by measures of this type? Sir, this is a thoughtless Bill, brought forward by the Ministry and they are seeking to pass

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this measure, with the majority they have behind them. They have nobody to advise them on these technical matters and they do not know what consequences would follow therefrom. We know from experience that there are many instances where usufructuary mortgages have been entered into, wherein both the principal and interest are paid in the course of years—sometimes for 40 and 50 years. Even such cases will be affected by this Bill. All cases, whether good, bad or indifferent are being treated in the same way and no distinction is made between day and night, between a good mortgagee and a bad mortgagee, between a man who charges a reasonable interest and a man who charges usurious rate of interest. No difference is made between all these cases. The Government want to treat all cases alike and to them every man is the same, whether he is a good agriculturist or whether he is a blood-sucker or a usurious money-lender. I say, Sir, that this Bill seeks to ruin thousands of people who have been helping these agriculturists and ryots from the clutches of the usurious money-lenders.

2-45
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“Will anybody help them hereafter except on the security of gold which is in the possession of the ladies of the House and on usurious interest? What are the Government doing? I say, Sir, that this is a thoughtless piece of legislation which the Hon. Minister without thinking of his prestige must take back. At least as regards the usufructuary mortgages he must not have this legislation pass through this House. There cannot be any question of prestige when the agricultural economy of this province is concerned. I do not want to speak anything more, Sir, because these criticisms even on general principles are not received as honest criticisms coming from somebody who takes a different point of view. I must however say this, Sir. This is a matter where we are depending upon your good offices. I take the full responsibility, Sir, when I say this. After what happened yesterday when we decided not to take further part in the discussion of the Abolition of the Zamindaris' Bill, until a Bill is brought in to amend the Bill in order to keep up the prestige of this House as it was promised by the Hon. Minister, the Opposition will not even discuss the general principles of any Bill; not only they will not bring in amendments but they will not even discuss the general principles of Bills. We shall wait for a reasonable time. These Bills are supposed to have been carried through the other House and they are brought in here to be carried without any amendments so that they may appear to have been passed. To-day I take part in discussing the general principles of this Bill, but after that period is passed, you will see that no Bill will even be touched by the Opposition either for amendments or for general discussion. I give this warning, Sir, and I want your good offices because I am feeling on that . . .”

MR. PRESIDENT:—“I am sure the hon. Member would have had my good offices if he had said it yesterday. The Hon. Minister said, I believe, that the only reason was that the Bill would be delayed.”

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DR. V. K. JOHN :—“ It shows, Sir, that one cannot move any amendment at all here.”

MR. PRESIDENT :—“ I understood the Hon. Minister to say that he did not like the major portion of the work to be delayed just for the sake of this and that he would bring in an amending Bill as soon as convenient. That should have put the humour back.”

DR. V. K. JOHN :—“ I would have waited for that Bill. But that was a point, Sir, on which we felt and we still feel very much and sincerely. The Government should understand that. It may be that they would like to have no opposition at all so that their Bills might be passed in this House without any amendment and in one minute. There will then be no difficulty at all for them. After all, you must know, Sir, with what painful feeling we decided yesterday not to have anything more to do with that Bill. It was because we felt that no amendment could pass through. If that is the situation, Sir, these Bills will never be touched. I have tried to assist the Government with criticisms which I have sincerely offered and I have given these criticisms in all earnestness and in the interests of the agricultural population of this Province.”

* THE HON. DR. T. S. S. RAJAN :—“ Sir, I would like to know whether the Hon. Leader of the Opposition would always insist on our accepting all his amendments or propositions. This is a House of Legislature, Sir, in which we go by a majority vote and get our Bills passed if we have a majority. The Leader of the Opposition cannot justly complain over this. In fact what was done yesterday was nothing unusual. I believe, Sir, the Hon. Minister for Revenue went out of his way in promising to bring in a Bill in order to placate the Opposition. It is not our desire, Sir, to carry out things against the Opposition. We just want time to consider the matter. We accept their criticism and give them the best consideration possible. It is only on these grounds the Hon. Minister made that statement and if it does not please the Leader of the Opposition we cannot help it. Therefore we proceeded with the Bill. Whether it is a threat not at all to co-operate or to non-co-operate or to compel the Government to do what they like, it is out of the question because this is a House of the Legislature where we go by voice. As long as the votes are in favour of our proposition the Leader of the Opposition cannot justly complain. They have had time to say what they had to say and the Leader of the Opposition had his supporters to say what they wanted and they also voted. All these things have been gone through properly and regularly and I do not see where all this grouse comes from.”

DR. V. K. JOHN :—“ There is no grouse.”

MR. PRESIDENT :—“ All these discussions are not germane to the subject under discussion.”

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* THE HON. SRI K. MADHAVA MENON :—“Certainly, Sir, these are not germane to the subject under discussion. But there are some things which Dr. John said which require an answer. Dr. John was rather angry and impatient and when a person gets impatient and angry he does certain things”

MR. PRESIDENT :—“I may just tell this to the Government. Perhaps what was in the mind of the Opposition was this. Yesterday's amendment was in the nature of an amendment trying to keep the powers of this House. In fact the House was forced to vote on the amendment that this House shall have certain powers to approve the rules. The net result of the voting was that the House voted saying that this House need not have that power. That is a point which deserves consideration by the Government. Dr. John also took me by surprise after the voting when he stated that they were not going to co-operate. If that was his attitude he might have given me some information about it in advance and my views also might have been there to prevent such a contingency. I think this is a matter which need not be discussed further. The Hon. Minister may go on.”

* THE HON. SRI K. MADHAVA MENON :—“I will not discuss it further Sir, but it is hard for you to ask me not to refer to it at all because I want to refer to certain things and I shall”

MR. PRESIDENT :—“I will certainly not be in your way”

* THE HON. SRI K. MADHAVA MENON :—“I do not want to cause any bitterness of feeling. If Dr. John will excuse me, Sir, I shall say this. When some mud is slung something sticks to our cloth unless we wash it away. Like that if something is said which is not true I must try in the best way possible to wash the things that have been said. So I shall try, Sir, not to be irrelevant”

MR. PRESIDENT :—“The Hon. Minister should try to be as non-provocative as possible.”

* THE HON. SRI K. MADHAVA MENON :—“Dr. John was rather impatient to-day, Sir. It was not that I was not attending. I was whispering a word to Dr. Rajan. Dr. John for the moment lost his temper and that is why this outburst, Sir, if I may use that word. He charges us saying that this Bill is a thoughtless Bill and that it was thoughtlessly done. I must say that what he did was a little thoughtless. He was indulging in giving us a warning that this is going to be the end and asked us to beware of our fate. All these things were the result of a little impatience on the part of Dr. John. You also remarked, Sir, yesterday that the House might adopt the rules by a resolution and that was the last straw on which the Opposition wanted, if I may say so, to show their protest. I want to quote the exact words used by the Hon. the Revenue Minister, Sir. He said : ‘I shall undertake that

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no rule under this section shall be passed or brought into force by the other House without being brought to this House. This Bill may not be kept pending because of that.' Was that want of respect, Sir? Only in order to meet certain exigencies, Sir, he suggested this. If Dr. John had the patience he would not have done like this. Dr. John says, Sir, that he has not moved any amendment to this Bill, which was here for days together. It was sent to them long ago and it was here much before the incident took place. Evidently Dr. John did not then go through the Bill at all or he did not want to say anything. I shall now address myself to the general discussion that we had about this Bill, Sir.

If I understand Dr. John correctly, Sir, he is accusing me for the original sin and not for the present sin, namely, the 1938 Act. If I have understood his arguments correctly, he says that it has completely shattered the credit of the agriculturists and 'hat when we are amending that Act, we are shattering the credit of the agriculturist worse. The charge is against the original sin and not against the present. Dr. John was asking me for statistics, Sir. May I suggest to Dr. John, Sir, to read Dr. B. V. Narayana-swami Naidu's Report, which is a published report, made after the Agriculturists' Relief Act was in existence for over ten years? To find out as to how far the agriculturists did not get loans after the last Act was passed, I leave it to him to read Dr. Narayana-swami Naidu's report. The facts and statistics are there. As usual Dr. John began with the uselessness and impotency of this House and that no amendments will be accepted and stated that was why they were not moving any amendment. When Dr. John says that, I am not surprised, Sir. I can only say that I shall not be surprised at anything that Dr. John does in the House, after my experience of yesterday. As Leader of the Opposition, Sir, I have found him expressing opinions which are just the reverse of those of other Members of his Party. He has been expressing opinions here just contradicting what he perhaps said in statements in the Press. (Interruption.) If he is not surprised with what the Government do, the Government are not surprised with what Dr. John does. It is my only answer to him. What he says about this Bill is this. I don't know whether I have correctly noted. (Interruption.) That was exactly what the Leader of the Opposition did. He did not speak about the Bill. He spoke about other things which I have to answer. That is my unfortunate position. He said: 'The Opposition is most anxious—I am quoting him, Sir—to support the poor agriculturists. The only anxiety of the Opposition is that the credit of the agriculturist was not lost.' You will see the wonderful sympathy for the poor agriculturists, Sir, of the Opposition party. The Leader of the United Democratic Party has shown his sympathy in his speech. He says that the agriculturists are given loans by the creditors out of sympathy and love, not because they want to earn interest on their capital. And therefore he is saying that we must have more sympathy to the creditors. The Opposition's idea of the agriculturists and their creditors is that the creditor is having an overflowing love to the debtor and he is advancing money to the debtor

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out of his overflowing love. Woe to that country and to the Opposition and the Party whose sympathy for the agriculturists is like that. I am sure, Sir, the agriculturists will not thank the Opposition for this sort of sympathy."

DR. V. K. JOHN :—" I never said anything like that. That is why I said the Minister was not attentive. I only said in some cases"

THE HON. SRI K. MADHAVA MENON :—" I am not yielding, Sir. I have noted what my Friend stated. He said : The creditor feeling sympathy with the debtor preferred a mortgage instead of a sale and gave it back to him. These are the exact words, Sir, that Dr. John used. I have noted them down when he was speaking about these usufructuary mortgages"

MR. PRESIDENT :—" That shows you were not at all inattentive."

THE HON. SRI K. MADHAVA MENON :—" I leave it to you, Sir, and to others to judge whether I have been inattentive."

MR. PRESIDENT :—" He probably meant some creditors."

3 p.m

THE HON. SRI K. MADHAVA MENON :—" Sir, you were kind enough to help him with the word 'some'."

MR. PRESIDENT :—" He says now that he said only 'some'. I think he said something like that."

* THE HON. SRI K. MADHAVA MENON :—" I want to clear away the misunderstanding. A sort of security for usufructuary mortgages is provided in the old Act of 1937 also. But, Sir, Dr. John said that we are doing all this in an inefficient manner and wanted us to take his advice. Sir, I am obliged for his very efficient advice. He said that in the original Act, it was not provided for. But, Sir, I say it is a very big mistake. Usufructuary mortgages were included in the original Act. Only one class of usufructuary mortgages were not included. May I remind him about section 10 of that Act? I am reading section 10 of the old Act which was much commented upon."

MR. PRESIDENT :—" I do not think the Leader of the Opposition denies."

* THE HON. SRI K. MADHAVA MENON :—" He was not aware of it. Otherwise he would not have made those remarks."

DR. V. K. JOHN :—" If it is so, why this amendment? I was only speaking of the amendment of the Act."

* THE HON. SRI K. MADHAVA MENON :—" Now, Sir, section 10 of the old Act says : ' The provisions of sections 8 and 9 shall not apply to any person who, though an agriculturist as defined in section 3 (ii), did not on the 1st October 1937, hold an interest in, or a lease or sub-lease of, any land as specified in that section.' Again, it says, ' Nothing contained in sections 8 and 9 shall affect any mortgage by virtue of which the mortgagee is in possession of

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the property mortgaged, where no rate of interest is stipulated as due to the mortgagee.' Sir, there are hundreds and thousands of usufructuary mortgages going on in this Presidency. Perhaps some of them have come to the notice of my hon. Friend also, where the interest has been provided in the usufructuary mortgage so that he may understand that there is no particular sanctity about usufructuary mortgages. As I said, where the interest was not provided, there was the practical difficulty of finding out whether double the amount has been paid by way of interest or not. But, Sir, it was given to the hon. the Leader of the Opposition to give us the advice. He said, take this advice; anything paid over 5 per cent should go towards the principal. That is what the Leader of the Opposition has advised. Sir, it is a very valuable advice! Of course it will give a great benefit to the man who has taken money on usufructuary mortgages. But, Sir, suppose there is a usufructuary mortgage for thirty years. Suppose, Sir, the property is a coconut garden. Whether it was 5 per cent or even less, you have to take what the price of coconut was 30 years ago, and then at the rate of 5 per cent of the interest, you have to work it up. If you do so, you will find that the suggestion proves to be an impossibility. Therefore, Sir, according to the suggestion of Dr. John, the remedy is much worse than the disease. If my Bill can be considered a disease, the remedy is much worse. If the authors of this Bill have been thoughtless and the suggestion of the Hon. the Leader of the Opposition is that they have not bestowed sufficient thought—I can say they have not been so thoughtless as the person who has made such a suggestion.

“Again, Sir, Dr. John said, you are going against all standards of morality; you ask the man who has taken money not to pay; you are acting against all standards of morality. Sir, to some extent, it is true to say that he is not paying the money. But, only under certain conditions, he need not pay the amount. Even in international obligations, under certain conditions, the debts are not repaid. For instance, according to the Lausanne Treaty, England, France and other countries who have borrowed from America did not pay the debts because according to the Lausanne Treaty, there was a general agreement. The result was ‘Cash and carry’ policy had to be followed later on. So, Sir, in these matters, international precedents are there. Under certain drastic conditions, we have said, take this much and not more. That is what has been done in this amending Bill.

“Sir, arguments have been advanced against me about the standards of morality. Sir, we have only said, you should not take unduly and that you should take only a reasonable amount. Then, Sir, Dr. John said that the Minister was thinking in the air. When he said that, I was really thinking on facts and not in the air. On the other hand, his talk was more in the air.

“Then, Sir, he said that the Minister cannot gain popularity because, no man will pay money to the agriculturist hereafter. That is another charge, Sir, which he made. Sir, after all, if I can

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gain any popularity, it should be by passing a measure which people like. Why should he grudge it if I get a little bit of popularity on that account? Sir, I can gain popularity only if the measure does good to the people and not by a speech in the House. I think this measure will be certainly popular; otherwise, there is no meaning in charging that I want to gain popularity. The other argument was that nobody will pay any money to the agriculturist hereafter. If only my hon. Friend will read Dr. B. V. Narayana-swami Nayudu's report published two years ago, he will understand that the agriculturist debt has increased subsequent to the Act and there is no dearth of money for the agriculturist for getting his loan. As I said before, Sir, except in section 9-A, in almost all other sections, there are only corrections of certain mistakes that have crept in owing to a different interpretation of the original Act. For instance, in 53 Law Weekly, M.L.J., there was a mistake pointed out. A father got a promissory note executed in the name of the son and after the passing of this Act, for the interest on the promissory note, another promissory note was prepared in the name of the son. The High Court says that under the said Act, it must be in the name of the same creditor and not a different creditor. Otherwise, it is not part of the interest which could be adjusted towards interest. That was the mistake pointed out and we have corrected that mistake in the present Bill. Therefore, except in section 9-A, in all other sections, the amendments are corrections to the previous Act and these amendments are brought simply to make the intention more clear. Therefore, Sir, these amendments are not such as would kill all sorts of agricultural credit in this Province. The hon. Member said that hereafter there will be no agriculture in this country. There need be no such fear because the Act is intended to help the poor agriculturists.

"Then, Sir, the hon. the Leader of the Opposition asked whether there are any statistics prepared with regard to the agricultural credit in this Province and the persons who will be affected by this Bill. Sir, I will put a similar question to him in return whether he can furnish statistics of persons who will be benefited by this Bill. Here is a Bill which is welcomed in every quarter and especially by the poor man. I am sure the Hon. the Leader of the Opposition, Dr. John, cannot understand it because he must have never been a borrower. It is only the borrower that can understand the difficulty of being a debtor. The same thing will apply here.

"Sir, the other thing he said was that this Bill will drive the agriculturists to money-lenders and so on. Another thing which he said was that the villagers know better than lawyers. I entirely agree with him that the villagers know much better than lawyers. They understood the necessity of this amendment in spite of the fact that lawyers have been opposing it tooth and nail saying that it is all against principles of sanctity of contract. Sir, we have studied the conditions of the agriculturists and we feel that most certainly on this amending Bill, the villagers know better than the lawyers."

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DR. V. K. JOHN :—" I said lawyers and Ministers."

* THE HON. SRI K. MADHAVA MENON :—" I accept the amendment, Sir, that villagers know better than the lawyers and even the Ministers. That is why the Ministers have taken up this legislation even though lawyers, however eminent they may be, were opposing such a beneficial measure.

" Then, Sir, another criticism was that after this Government came, they have frightened the industry and he gave as an instance, the nationalization of transport and the Zamindari Abolition Bill, though they are not germane to the present Bill. Sir, whether we have frightened industry or not, the industry has now frightened the Hon. the Leader of the Opposition because a nationalized industry is not to his liking. He does not like nationalization of transport; he does not like nationalization of anything because he is having a sort of obsession. If I dislike I think everybody else also should dislike. It is a sort of obsession which I am liable to. Sir, the Leader of the Opposition is suffering under an obsession. I have got an obsession that this Act will benefit the poor agriculturist because the debt which he is groaning under is too much for him. Therefore, Sir, there is this difference in outlook which cannot be helped.

" Lastly, Sir, Dr. John said that a popular Minister should not have done this thing because in the original Act itself it is said that it will not apply to usufructuary mortgages. But, Sir, I can show a dozen cases of such mortgages where interest has been specifically fixed as 10 or 11 or 12 per cent. Then there are cases of usufructuary mortgages where the property is leased and the rent is paid for the interest. In such a case, this Act must apply. What is wrong in applying this Act to such cases? Therefore, Sir, it is wrong to say that it is opposed to the original Act. If there is anything wrong even with the original Act, then I cannot help it.

" Then, Sir, Dr. John said that the Minister does not seem to recognize the distinction between day and night. Sir, I say sometimes people lose their temper and they do not really understand the distinction between a day and a night. I have nothing more to say except to state that nothing was mentioned about any of the sections of this Bill except section 9-A. There was only a general attack and a general criticism not pertaining to the present Act. Finally, I may again remind my hon. Friend that usufructuary mortgages were dealt with in the original Act and it was a mistake on the part of my hon. Friend to have said that they were absolutely excluded. I hope he will realize that it is not so. With these words, Sir, I move that the Bill be taken into consideration at once."

MR. PRESIDENT :—" The question is—

'that a Bill further to amend the Madras Agriculturists' Relief Act, 1938 (L.A. Bill No. 4 of 1948) as passed by the Assembly be taken into consideration at once.'"

The motion was put and carried.

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3-15
p.m.

Clauses 2 to 16 and 1, and the Preamble were put one by one and carried.

* THE HON. SRI K. MADHAVA MENON :—" Sir, I move that the Bill be passed into law. I do not wish to say much now. I must thank the House for the kindness with which it has . . ."

DR. V. K. JOHN :—" Wait and see."

* THE HON. SRI K. MADHAVA MENON :—" My hon. friend says, let us wait and see. So I shall wait and see."

DR. V. K. JOHN :—" Sir, I take this opportunity, in the third reading stage of the Bill, to say a few words. The Hon. Minister stated that there was no serious amendment in this Bill, except clause 9-A. I criticized only that amendment, but did not touch others. Two points I have already made, and these I want the Hon. Minister and the Government to remember.

" The first point I made was that the agriculturists must be supplied enough credit through co-operative credit societies, which it is the duty of the Government to establish, in order to help the ryots, whose credit might be shaken, by a Bill of this nature.

" The next point I made was this. Why should all mortgages be considered on the same footing? The Hon. Minister stated that there are about thousands and thousands of mortgages. Could not the Government find out a formula which would not do injustice to a very large number of mortgagees who possess lands under usufructuary mortgages? I suggested a formula myself. Mortgagees who did not charge too much by way of interest or rent, when they give back the land, need not at all be brought within the scope of this legislation. Only persons who charged a rate of interest more than is reasonable need be touched. Why not give an opportunity to a Court of Law to investigate the circumstances of a particular case on its own merits? I suggested, Sir, that each case might be examined on its own merits.

" The Hon. Minister did not reply to any of these points, but chose to introduce personalities into the discussion, and thus brought down the level of the discussion. On the other hand, I kept the discussion at a very high level, and talked only about the Bill, and made my criticisms of the same, whereas the Minister has not cared to do so. I do not want to go into the same controversy once again, but shall choose to keep the level of the discussion high, and so shall content myself with offering these suggestions."

SRI B. NARAYANASWAMI NAYUDU :—" Mr. President, Sir, a reference has been made to international matters, and it is that which has prompted me to speak on this occasion. The Hon. Minister stated something about the Lausanne agreement. That was the first agreement under which money was lent by America to Mr. Baldwin at a high rate of per cent (at about 5 per cent). The effect of that arrangement was that during the second world war, the creditor said : ' During the first world war I gave the money; and you didn't repay. So, I won't give you

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any goods, unless there is to be followed the policy of "cash and carry". The Hon. Minister stated some things, either without knowing them, or with a view intentionally to mislead the House. America stated 'cash and carry', and that is exactly what the Leader of the Opposition stated. When the second world war developed, the creditor said: 'I shall give you loan, but only on the policy of "lease and lend."'. If international standards are to be any guide for us here, the highest morality has to prevail with regard to these usufructuary mortgages. Are the obligations under these usufructuary mortgages to be wiped off, according to these international standards? I submit, Sir, they ought to be honoured, and the Government should have said that the best will be done with regard to these obligations. The rates of interest should not have been cut, because the money market would become closed. I have risen on this occasion to speak on the subject because there is no use of referring slyly and darkly to international things, as though they happened in a quite different way. If international morality were to prevail here, then the Bill before us ought to go away.

"Sir, a plain question was put to the Hon. Minister to give some statistics regarding the number of mortgages that will come within the scope of this Bill, the rates of interest involved, the relief sought to be given, etc. The Hon. Minister took some half an hour, but yet did not give us any figures at all. He only made some allegations, counter-allegations, and imported some prejudices and counter-prejudices into his speech. I ask, Sir, are we in a polling booth or in a Legislature? I do not mind whether the amendments are carried or not. But what I want is that the Government should at least for the sake of courtesy own the correctness of something which is true, though they may not care to accept any of our amendments. The Government have not even cared to see and go into the amendments which the Opposition has tabled. I submit, that good things should not be thrown out. We cannot function as an Opposition unless we have what may be called a sincere hope that if the Hon. Minister feels that what is being stated is correct he will have the courage to say that it is correct, whether that is carried or not. Sir, when I address the hon. Members of this House, I feel I am not addressing the members of the Treasury Benches at all. The Hon. Minister and the members of the Treasury Benches seem to think that it is their privilege to differ and heckle in all these things. It is nothing short of arrogance. My only submission therefore is this. If any Hon. Minister feels that a certain thing is right, let him please have the courtesy at least to own it, whether it is passed or not."

ABDUL LATIF FAROOKHI SAHIB BAHADUR :—"Mr. President, Sir, no more speeches are wanted now. But I would only like to elucidate certain facts from the Hon. Minister. The question raised by the Leader of the Opposition and my hon. friend Mr. Narayanaswami Naidu is that no statistics have been given by the Hon. Minister."

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MR. PRESIDENT :—“ The hon. Member need not repeat those points now. ”

ABDUL LATIF FAROOKHI SAHIB BAHADUR :—“ Sir, I would only like to stress that point. ”

MR. PRESIDENT :—“ That point has been stressed sufficiently. If the hon. Member has any other point, let him speak by all means. ”

ABDUL LATIF FAROOKHI SAHIB BAHADUR :—“ I do not want to stress any other point, Sir, but only this, namely, that no statistics have been given by the Hon. Minister. ”

* THE HON. SRI K. MADHAVA MENON :—“ I am sorry, Sir, that my hon. friend Mr. Narayanaswami Naidu who made a very vehement speech just now, is not here to hear what I have to say. Dr. John stated that we are taking away all standards of morality by asking people not to pay. I only said that that has been done in certain emergencies, as in the case of the Lausanne agreement. I did not hide the fact that the consequence of it later on was that America said: ‘ cash and carry ’. So, exactly what Mr. Narayanaswami Naidu stated, I stated myself. It was therefore very wrong on his part to have said that I have hidden something and tried to insinuate something else. Really it is very unfair to accuse me of trying to insinuate things, because I have openly said what the result was. ”

3-30
p.m.

“ Sir, this Bill came here for the first reading when a motion was moved for the appointment of a Joint Select Committee. The Hon. the Leader of the Opposition and Mr. Narayanaswami Naidu were here. They could have pointed out the defects in the Bill and all those points would have been considered by the Select Committee. That was the time for a discussion of the general principles of the Bill. But nothing was mentioned. ”

DR. V. K. JOHN :—“ On a point of order. When the Bill is in the lower House the resolution for a Joint Select Committee is made here. We have to discuss the general principles only when the Bill comes up here after it has been passed by the lower House. We need not discuss the general principles at the time when we nominate members for the Joint Select Committee. ”

MR. PRESIDENT :—“ It is open to the hon. Members to discuss the general principles at the time of the appointment of members to the Joint Select Committee. The Hon. Minister says that if that had been done, the Select Committee would have considered the points. ”

* THE HON. SRI K. MADHAVA MENON :—“ Sir, the resolution that was moved was that this House concurs in the appointment of a Joint Select Committee for the purpose of considering the Agriculturists' Relief (Amendment) Bill. That was the time when the Bill should have been considered by this House and necessary instructions given to the Joint Select Committee. ”

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MR. PRESIDENT :—" I do not think you will go so far as to say that the House ought not to discuss the general principles now."

* THE HON. SRI K. MADHAVA MENON :—" Not at all, Sir. But they are now asking for figures. They cannot ask me for figures at this stage. Sir, my hon. Friend said that he has lost hope in this House. I say, Sir, I have lost hope in him. Dr. John said that it was beneath his dignity. I also feel that it is beneath my dignity to reply to some of these things."

DR. V. K. JOHN :—" What about rule 105? "

MR. PRESIDENT :—" When the motion for the appointment of a Joint Select Committee is before the House, is it not open to the House to say that they do not agree with the general principles of the Bill and therefore would not agree to appoint members to the Joint Select Committee? "

DR. V. K. JOHN :—" No Sir. The general principles are not to be discussed at that stage. The stage at which the general principles can be discussed is after the Bill has been passed by the other House and introduced in this House."

MR. PRESIDENT :—" The only point which the Hon. Minister has raised is that if the Opposition had made these points clear at the time when the motion for the appointment of a Joint Select Committee was made, it would have helped the discussions in the Select Committee. There is no question of anybody being prohibited from discussing the general principles at this stage. When the motion for the appointment of a Joint Select Committee is made, I do not think anybody is prevented from saying, 'I do not agree with the general principles of the Bill and a Select Committee need not be appointed at all.' I do not agree with the view that the House cannot say that at that stage."

The question that the Bill be passed into law was put and carried.

(7) THE MADRAS PUBLIC LIBRARIES BILL, 1947
(L.A. BILL No. 9 OF 1948).

* THE HON. SRI T. S. AVINASHILINGAM CHETTIYAR :—" Sir, I move—

'That the Madras Public Libraries Bill, 1947 (L.A. Bill No. 9 of 1948) as passed by the Legislative Assembly be taken into consideration.'

" It is unnecessary for me to expatiate upon the need for the establishment of a good library system throughout the Province. The libraries are the single biggest agency for adult education in any country in the world. Libraries are of various kinds. They may be of the ordinary sort which serve the ordinary man and woman. They may be also of a highly technical nature serving the specialized profession like engineers and medical men. Apart

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from the libraries in the schools, it is necessary that we should have a network of libraries throughout the Province which will help people to educate themselves further after they have left schools and colleges. In fact the high level of intelligence and knowledge in a country depends upon a wise provision of a library system to meet the needs of the people of the various places.

"Till now the growth of libraries in the Province has been haphazard. There has not been a central direction and there has not been even a proper guidance. Individuals and associations felt the need for books and have sought to meet them by establishing libraries of a sort in their own places. Many of them are not equipped with modern books and many of them do not have the finances to do so and many of them even when they have the finances do not have the guidance to organize them properly. In 1947 the number of libraries was 1,544 of which 1,159 were managed by district boards and panchayats, 102 by municipalities, 47 by co-operative societies and 235 by private managements. In the same year the amount spent for the libraries was Rs. 76,000 from Provincial funds, Rs. 1,22,000 from Local Board funds and Rs. 6,28,000 from private funds.

"The matter of library legislation has been before the Government for nearly a quarter of a century. I am glad it has been possible for me to introduce this legislation before the Madras Legislature. The original Bill as introduced in the Assembly provided for the constitution of a Provincial Library Committee to advise Government in all matters relating to libraries. It also provided for the appointment of a Director to supervise the libraries throughout the Province. There will be a central library in the Province which will be managed by the Director. Provision has also been made for the free supply to this library of four copies of every new book printed in this Province by suitable amendments to the Press and Registration of Books Act, 1867.

"The original Bill provided for the Corporation of Madras, district municipalities and panchayats to be the local library authorities for their respective areas and also provided that a library committee may be constituted in all these places to assist the local library authority except the panchayat. Each local library authority will have separate library funds. Local library authorities, other than district boards, are required to levy a library cess in the form of a surcharge on the property tax or house-tax levied by them, at the rate of three pies for every whole rupee in the tax levied. There was a provision in the Bill that the rate of this cess may be increased by the Government or with their sanction. Power has also been given to all library authorities (including district boards) to levy other library cesses with the previous sanction of the Government. The Government will also have power to compel such authorities to levy such cesses, where necessary. In all cases, the provisions of the City Municipal Act, the District

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Municipalities Act or the Local Boards Act, as the case may be, will apply to the recovery of library cesses, subject to any modifications and restrictions which may be found necessary by Government.

“ When the Bill was referred to the Select Committee, it made certain changes. The main changes made in the Select Committee were :—

‘ (1) *Clause 5.*—The constitution of the local library authorities was changed. Instead of making the district boards and the municipalities and the panchayats and the Corporation of Madras the local library authorities, a separate constitution has been provided apart from these bodies for bringing into existence the local library authorities. The reason for bringing in these separate bodies has been to make it more or less an expert body with representation for the local boards concerned and also representation for the libraries as well as educational institutions. Secondly, if different library authorities are there separately for each municipality, panchayat and the district board, there will not be proper co-ordination between these authorities. In view of the meagre finances that will be at the disposal of these libraries, unless there is a proper co-ordination of these libraries under a single library authority, it was felt that the library movement may not be built up in a proper co-ordinated manner throughout the district. It is necessary that there must be something like a central library in each district so that, if necessary, it will stock rare books and lend out to other libraries and this will be possible only when you will have a co-ordinated single library authority for the whole district.

‘ The third change made in the Select Committee has been the enhancement of the rate of the cess from three pies to six pies. It is expected that by this increase the money available for libraries will be increased from Rs. 1,50,000 to Rs. 3,00,000. The income will be doubled.

‘ The next important change made by the Select Committee is in clause 13 (3). The Provincial Government shall contribute to the library fund maintained by every local library authority other than the local library authority for the City of Madras, a sum not less than the cess collected under section 12, sub-section (2).

‘ This is by way of helping the library movement from provincial funds. I need not say that it has been widely welcomed by all people who are interested in the growth of libraries.

‘ These are in the main the changes made by the Select Committee. When the Bill came before the Assembly, the House unanimously accepted the report of the Select Committee. A few verbal changes have been made about which I need not mention here.’ ”

MR. PRESIDENT :—“ Some panchayats are maintaining libraries.”

* THE HON. SRI T. S. AVINASHILINGAM CHETTIYAR :—
“ They will continue to exist.

[Sri T. S. Avinashilingam Chettiyar] [25th November 1948]

“ Sir, the Bill has been warmly welcomed by all, especially the provision that the Government should contribute an equal sum. I hope, Sir, that this will inaugurate a new era in which all the library authorities will work in a co-ordinated manner and every district will be equipped as time goes on with a number of libraries so that adult education of the proper type may be provided to the men and women of our Province.”

MR. PRESIDENT :—“ What is the surcharge? Is it on land cess? ”

* THE HON. SRI T. S. AVINASHILINGAM CHETTIYAR :—
“ It is on house-tax, Sir.”

3-45
p.m.

* DR. V. K. JOHN :—“ Mr. President, Sir, I must congratulate and compliment the Hon. Minister on introducing this Bill particularly I must congratulate him on the statistics and the explanations he has given. If one had not read either the original Bill or the one as passed by the Select Committee or the one as passed by the Assembly, one would have understood the Bill very well from the way the Minister has explained in detail the important provisions of the Bill. Particularly I am obliged to him for the figures he has given. Sir, libraries play a very useful function in the Province particularly when so many are uneducated and so many cannot afford to keep private libraries of their own. This is a new experiment and I must congratulate the Hon. Minister on bringing a Bill to put libraries on a statutory basis.

“ Now, Sir, personally speaking, I would have myself preferred to keep the original Bill without constituting a local library authority; it is not essential for the efficient functioning of libraries in various parts of the Province to have a central authority or local library authorities. But there is nothing wrong in it, and I would not take very serious objection to it, although my preference would have been for what was provided in the original Bill without amendment by the Select Committee.”

MR. PRESIDENT :—“ What was the original provision? ”

DR. V. K. JOHN :—“ The original provision was that local bodies should run them. The original provision had some meaning because under clause 12 every local library authority shall levy in its area a library cess in the form of a surcharge on property tax or house-tax levied in such area and it is the Corporation and the municipalities which have to collect and hand over the amount to these authorities. It might be said ‘ why owners of properties alone should make the major contribution to this public fund for libraries ’. After all, the Government have to find out some place where it is certain they can find some money. The income-tax is not within our jurisdiction, and therefore I think it is quite proper they put their hands on something from which they can always take some money. The Hon. Minister drew special attention to the fact that the Government are bound to contribute a particular amount under this Bill. I am quite sure that so long as the Hon.

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Minister who is so much interested in libraries continues to be the Education Minister, the Government will not only contribute what the Government are liable to contribute under the statute but will contribute something more, because after all libraries do a very useful function in the education of the people.

“ Now, Sir, whatever may be the criticism here and there—there can always be differences of opinion on a Bill like this—I think this Bill ought to be accepted and the Bill must have our blessings. I congratulate the Hon. Minister once again and I hope that his name will be associated with this Bill which will be found to be more and more useful as years go on. This has a very wide scope if only the public, the local bodies and the Government would co-operate. There is no politics in this; it is only the education of the public. I appeal not only to the Government and to the local bodies, but also to public-spirited men and women in the Province to assist in the establishment of these libraries and to see that the libraries established under this Bill function very well and year by year they go from strength to strength.”

SRI N. RANGA REDDI :—“ Mr. President, Sir, while I support the important provisions of the Bill, I should like to make one or two observations with regard to the provision relating to the payment of grants by the Government. As the Hon. Minister for Education has explained in his speech, this Bill is intended to establish public libraries in the Province and to organize a system of urban and rural libraries. That object is to be achieved by the levy of a cess of half an anna on house-tax or property tax. According to section 13, a like amount is to be paid by the Government. My submission to the House is this : if this principle is to be accepted, is it possible that in the whole Province the same uniform effective service can be maintained by the realization of amounts from the various districts? What I want to make clear is this : unfortunately, the districts in this Province, all of them, are not rich ; the taxation from various districts, the disparity in the method of collection and the disparity in the realization are so great that the disparity in the amount of contributions by Government will also be great and inequalities will be great. If the idea of the Government is to see that illiteracy is liquidated, they should have some other provision by which grants are to be distributed to the districts on a different basis. They should not be made to depend on the amounts that are collected from the particular districts. If that is not to be the principle, then I submit the poorer districts and the backward districts can never hope to function or advance effectively along with the richer districts. I know even in previous years, grants for roads and bridges have been distributed on the basis of voluntary payment of an equal amount by the local bodies. The result was that local bodies which were poor were never able to claim that large amount that was claimed by the richer local bodies in the Province, so much so that the poorer districts were suffering ; their roads and bridges went to rack and ruin ; they were not constructing many roads or bridges. Probably there was some justification for it when it was left to local bodies

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to say ' We want this thing and that thing, we are paying so much and the Government should pay whatever we are paying '. But so far as these libraries are concerned, the Government themselves recognize the need for urban and rural libraries. When that need has been recognized, is it not the duty of the Government irrespective of the fact whether any amount is forthcoming from the local bodies or not, to distribute this amount equally? That is my point. Otherwise, Sir, the poorer districts can never hope to advance alongside the richer districts. Even the Draft Constitution has provided that it is the duty of the State—it is one of the directives—to provide compulsory elementary education for all children below fourteen years of age, and they want to provide for the education of the public. If the duty of the State is to provide education, how can they make any invidious distinction between the richer and poorer districts? I want that the Provincial Government should not tie itself to the provision in clause 13 of the Bill which says that so much amount alone can be drawn from the Provincial Government. They may overstep and should pay much more than what any district is entitled to on the basis of the tax collected by it."

MR. PRESIDENT :—" Do the provisions prevent such a thing? "

SRI N. RANGA REDDI :—" They do not ; but what I say is, the obligation of the Government under the Bill is to pay only so much amount."

MR. PRESIDENT :—" If there is obligation to that extent, the Government may exceed it? "

SRI N. RANGA REDDI :—" That is my submission. As a member myself of the Rural Water-supply and Drainage Committee, I had this principle enunciated and also accepted by the Committee. This is not a new thing. While Mr. C. Rajagopalachariar was the Premier here in 1937, he also recognized this policy, that is to say, with regard to the provision for rural water-supply, the need is the criterion and not whether any local body was willing to pay any amount for the construction work or not. This Government having accepted the need for making the people literate, and having said that it is very necessary to establish libraries throughout the Province, should also arrange to organize libraries in all rural places irrespective of whether any amount is forthcoming from the local bodies or not. In that way the Government should be more liberal in giving grants to the backward districts. I know even in the matter of giving grants for elementary school buildings, the principle seems to be to distribute grants on a population basis. Unfortunately, Sir, some districts are thinly populated and others are thickly populated ; what happens is: some districts are thickly populated because nature has provided them with good rivers always flowing and plenty of wet crops, while in other districts there is no irrigation, no wet lands and so, people there are not able to eke out their livelihood even. I, therefore, submit

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that this principle of 'if you pay so much, I will pay so much' should be given up, and the sooner it is given up the better. It used to be said that the man who pays the piper should have the right to call the tune. The Government should have realized it by now. Even in districts where you are establishing these libraries, does not the man who does not pay for the libraries get the benefit from them? There are also those who do not get the benefit of these libraries, but they are not prevented from having access to the libraries. The point is not whether anybody is or is not paying. The more important point is : should you not provide facilities for people who are not paying also? Therefore I submit that in regard to the poorer districts, this principle should not be applied. They should have more grants given to them. Sir, I support the provisions of the Bill."

* SRI R. SURYANARAYANA RAO :—“ Mr. President, Sir, I am very glad the Hon. Minister for Education has been emphasizing the importance of the library movement as a step towards the fulfilment of the ideal of adult education. But what I am not able to understand is why the Select Committee suggested and he agreed with the Select Committee, that there should be separate local library authorities. Sir, in England, every town and village has its own local authority to which representatives are elected by popular vote. As the hon. Members of this House are aware, each local authority raises local taxes, known as rates. The council is divided into committees, each with a specialized function, and one of those committees, is constituted as a library committee. This committee has invariably the right to co-opt outsiders possessing specialized knowledge of literature or education. Even the head-masters or headmistresses of schools are invited to serve on this committee. Therefore I do not know why we should create a number of committees when we have not got enough men to serve on the committees and societies we are already having? I do not know whether the Hon. Minister for Local Administration was consulted and whether he agreed his local bodies to abdicate their functions in favour of these library authorities. Sir, it is the function of every local body to provide this amenity and if they have not been able to do so, up to now, it is because they had no funds.

“ Sir, if this provision relating to the collection of cess is introduced in the Local Boards and Municipalities Act, certainly, Sir, every municipality and local board will be glad to collect this cess and promote the library movement. 4 p.m.

“ Sir, what is the composition of these library committees. Elections are to be held for constituting these committees. We have had a number of elections already and we know what factional spirit these elections generate. After all, the district board or municipality can elect its library committee and it may be given the option to co-opt members who are interested in the library movement. I do not think the Hon. Minister for Education was wise in accepting the suggestions made in the Select Committee. He ought to have stuck to his original Bill.

[Sri R. Suryanarayana Rao] [25th November 1948]

"Then, Sir, there is the question of cess. Hon. Members of this House know that we are greatly exercised over the attitude of the Madras Government towards the contribution for elementary education. The Advisers' Government brought an Act in 1941 by which they had disclaimed their responsibility to pay an amount equal to that raised by the local boards and municipalities by means of an education cess. That primary responsibility of improving and spreading elementary education, they were not able to fulfil and discharge. Now, the State comes forward and takes upon itself the responsibility of paying equal to the amount raised by the library authorities by means of a cess. What I am saying is that if the State can do it, let it do it by all means. I offer my co-operation in this matter. But I am afraid the State is undertaking a responsibility which it has disclaimed in regard to elementary education. In this connexion I also sent a note to the Hon. Minister for Education stating that we were dissatisfied with his attitude towards the Corporation of Madras in refusing to pay the amount equal to that raised by them by way of an education cess. That is the position with regard to the elementary education. Well, the Government may say that they have not got enough money to provide for this purpose in the Budget. But I hope the Hon. Minister for Education will do something for the spread of elementary education. Mine may be a pious wish.

"Sir, my hon. Friend, Mr. Ranga Reddi, has raised a very pertinent point. During the Advisers' Regime special grants were made for the backward districts in this Province for the spread of elementary education. As soon as the Hon. Minister for Education took charge, he threatened to withdraw and we had to approach him. Then I think the order was modified promising continuance of grants for schools, started but refusing aid for further expansion. I hope the position remains the same. As Mr. Ranga Reddi has pointed out, if you base your contribution on the amount to be raised by means of a cess in backward districts like ours, there may not be much scope for the progress of the library movement. In these districts there has been no progress in elementary education compared with other districts. Therefore, Sir, as you suggested there is a method by which if the Government are pleased, they can increase their contribution."

* THE HON. SRI T. S. AVINASHILINGAM CHETTIYAR. —
"It is provided in the Bill."

* SRI R. SURYANARAYANA RAO. — "Sir, I plead with the Hon. Minister for Education that in making contributions, he will remember this and not stick to the principle that the Government would pay only the amount equal to that raised by the local boards. I hope he will take into account the needs of each district in this matter. I feel the Hon. Minister has started a big movement. I wish him all success. But I also like him to see that in these elections to the various bodies, no action is created as far as possible so that the library movement may prosper and be useful to all."

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MR. PRESIDENT :—“ Will the Ali,asantana Bill take a long time? ”

* THE HON. SRI K. MADHAVA MENON :—“ Personally, I think it will not take much time.”

MR. PRESIDENT :—“ But there are some amendments.”

THE HON. SRI K. MADHAVA MENON :—“ They are only formal amendments.”

MR. PRESIDENT :—“ I think the whole thing can be finished by 4-30 p.m.”

* MRS. MONA HENSMAN :—“ Mr. President, I do not wish to take much time of the House with a long speech. But I cannot allow this Bill to be passed into law, as I think it will be in a few minutes—without expressing great pleasure on behalf of the women whom I have the honour to represent here in this House, that libraries are going to be increased and spread abroad so as to be within the reach of women as well as men in this country.”

MR. PRESIDENT :—“ Is there anything like that in the Bill? ”

* MRS. MONA HENSMAN :—“ Yes, Sir, a clear interpretation but I will come to that in a moment, for if and wherever there are Library Committees such as the Hon. Minister for Education has visualized, I feel sure that he will put women also on these library committees.”

MR. PRESIDENT :—“ This is the answer to Mr. Suryanarayana Rao.”

* MRS. MONA HENSMAN :—“ Sir, I have had experience of libraries, in this Province, because I have long been connected with the University Library and I am helping a voluntary library started in Madras in memory of the late Mr. Daniel Thomas. I know how difficult it is even to collect books and it is still more difficult to preserve them. I feel, Mr. President, that if one or two women are included in the committee, it would help the library movement as they will collect books from their friends and they will preserve good and rare books and will look very carefully after the budget. I am quite sure, the Hon. Minister for Education would also include women members in these committees. I do not think that the Hon. Minister has included only men members simply because they are going to pay cess and are more efficient than women. The men pay the cess because they happen to be in possession of the property.”

MR. PRESIDENT :—“ There cannot be two opinions on the matter that in some respects women are more efficient than men.”

DR. V. K. JOHN :—“ The real danger is that the Hon. Education Minister may prefer ladies to men.” (Laughter.)

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* MRS. MONA HENSMAN :—“ Sir, I should like to say that if we want to have a collection of books for the library, the idea of a central library seems to me to be the best solution. The hon. Member who spoke just before me referred to the need for a central source of supply—and he well knows about national health propaganda films. But I feel that people will have to look at the picture from two points of view, that of the subscriber and that of the reader. Both should be considered. Be that as it may, rare and good books and also reference books cannot be purchased out of the single funds of local libraries. A central library alone will serve this purpose of lending books as well as supplying new books and this will surely be a great benefit to this Province.

“ Sir, I just wish to ask the Hon. Education Minister one question, and I know he will answer it very satisfactorily as he has done with regard to other problems. When it comes to the question of libraries in rural areas, I presume he will lay emphasis on the regional language of that area so that the adult and the average person who has been made literate, will be able to profit by these libraries. We have done nothing for the growth of adult education in the past. Therefore, I trust that in these local libraries, great stress will be laid on the fact that books pertaining to ordinary life and rural life and books interesting to the adult, will also be included so that adult literacy and adult education may grow. The adult literate will not be content with the exercise books and small story books of children. Having seen life, they want better things. May I congratulate most heartily the Hon. Education Minister for bringing this Bill, and trust he will implement the policy he has promulgated by the allotment of sufficient funds for the same.”

* THE HON. SRI T. S. AVINASHILINGAM CHETTIYAR :—
“ Sir, I am grateful . . . ”

MR. PRESIDENT :—“ Not only grateful but you are fortunate.”

* THE HON. SRI T. S. AVINASHILINGAM CHETTIYAR :—
“ Sir, I am very grateful and I wish to declare myself very fortunate for having got the unanimous support of this House to this Bill.”

THE HON. SRI K. MADHAVA MENON :—“ It is very rare.”

DR. V. K. JOHN :—“ All good measures, we will support.”

* THE HON. SRI T. S. AVINASHILINGAM CHETTIYAR :—
“ Sir, I just want to say one or two matters. Separate Library Authorities are created for this reason. The taxes are all levied not in the rural areas but in the municipalities and district boards. To-day, we do not levy a great tax for the library movement. We are first seeking to levy a small tax on house property. We cannot entrust this job to the panchayat as there is no machinery to collect this tax on property in the rural areas. Therefore a separate Library Authority is created.”

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MR. PRESIDENT :—“ Surely we have got an agency in the panchayat areas.”

* THE HON. SRI T. S. AVINASHILINGAM CHETTIYAR :—
“ The panchayat areas are very few and small.”

SRI R. SURYANARAYANA RAO :—“ There are a large number of panchayats of which my Hon. Friend Mr. Chandra-mouli is in charge.”

* THE HON. SRI T. S. AVINASHILINGAM CHETTIYAR :—
“ Sir, compared to the non-panchayat area, the panchayat area is small.

“ Secondly, if you want to have a co-ordinated growth of the library movement in this province, there must be a Central Library to co-ordinate the work of various libraries. Also it will stock valuable books and distribute them to various places within their jurisdiction. If we do not have a Central Library it would be difficult to establish this co-ordination. This and other considerations were considered by the Select Committee and they went in for a Library Authority in each district as envisaged in the Bill.”

MR. PRESIDENT :—“ I thought that there will soon come a time when there will be a panchayat for every village.”

* THE HON. SRI T. S. AVINASHILINGAM CHETTIYAR :—
“ Then it will be time to make a small amendment.

“ About the contribution, there is a good deal of force in what my hon. Friend Mr. Ranga Reddi said. But we are living in rather bad times. I am hoping for a better time and let us await that.

“ As regards the suggestion made by the hon. Lady Member, certainly rural libraries will be stocked with suitable books. We propose to take the help of the Madras Libraries Association which has done a great deal of work in this direction and of Mr. S. R. Ranganathan who has distinguished himself in this field in framing rules and other matters.”

MRS. MONA HENSMAN :—“ Will the Hon. Minister give an assurance that the help of ladies also will be taken? ”

THE HON. SRI T. S. AVINASHILINGAM CHETTIYAR :—
“ That is the very reason why it is provided in clause 5 (2) (b) (ii) that two shall be headmasters or headmistresses. . . .”

DR. V. K. JOHN :—“ May I ask for an assurance that the help of men also will be taken? ” (Laughter.)

THE HON. SRI T. S. AVINASHILINGAM CHETTIYAR :—
“ I may assure that the help of both men as well as women will be taken.

[Sri T. S. Avinashilingam Chettiyar] [25th November 1948]

“ I am very grateful for the suggestions made and the support given.”

The motion was put and carried.

Clauses 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 14-A, 15, 16, 17, 18 and 1 and the Preamble were put one by one and carried.

THE HON. SRI T. S. AVINASHILINGAM CHETTIYAR :—
“ Sir, I move that the Bill be passed into law.”

The motion was put and carried and the Bill was passed into law.

(8) THE MADRAS ALIYASANTANA BILL, 1947 (L.C. BILL No. 1 OF 1948).

* THE HON. SRI K. MADHAVA MENON :—“ Sir, I present the report of the Joint Select Committee on the Madras Aliyasantana Bill, 1947 (L.C. Bill No. 1 of 1948) and move that the Bill as reported by the Joint Select Committee be taken into consideration.

“ I hope that the contagion of the good fortune of my Hon. Colleague will spread to me with reference to this Bill. (Laughter.) When I moved a motion in this House for constituting a Joint Select Committee on this Bill, I gave the reason why the Government took up this legislation. It has been suggested that it is expedient to define and amend in certain respects the law relating to marriage, maintenance, guardianship, intestate succession, family management and partition applicable to persons governed by the Aliyasantana Law of Inheritance. This Bill is more or less based on the Malabar Marumakkattayam Act passed by the Madras Legislature in 1933. There was no law relating to marriage, intestate succession or partition and it has worked much havoc. Marriages in the community are not held strictly valid in law. So the community has been asking for some sort of legislation. At the same time, there is a bit of conservatism in the community. This Bill does not go as far as the Marumakkattayam Act because the people in South Kanara to whom it applies do not want all the provisions of that Act to be incorporated. The Joint Select Committee held sittings in Mangalore, Udupi and other places and examined a number of witnesses. We had the benefit of the advice and experience of Mr. Karanth, who has been a practising lawyer in South Kanara, and also the advice of other lawyers there. The community as a whole welcome this Bill. In the matter of partition, the members of the community to which this Bill applies want that partition should be *per stirpes* and not *per capita*. I visited a hostel in South Kanara and even the young students there wanted that partition should be *per stirpes* and not *per capita*.”

MR. PRESIDENT :—“ What is the reason?”

* THE HON. SRI K. MADHAVA MENON :—“ The reason seems to be that women will be helpless if the partition is *per*

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capita. Under the Aliyasantana Law, the man has only life interest in the estate. After his death, the property descends to his sister's son. The community does not want to change this tradition. We have tried to liberalise to the extent the community will allow us to go. In fact, in the Marumakkattayam Bill of 1933 the Aliyasantana people also were included. There was so much opposition that it was given up. Later on Mr. A. B. Shetty sponsored this Bill. Public opinion was collected on it and published. There was an Aliyasantana People's Reform Conference. That conference suggested the principles on which legislation should be undertaken. We have prepared this Bill on the basis of those principles. In some respects it is not as advanced as one would wish it to be. But it will take time for public opinion among the community to grow. But the general approval of the community as a whole is there for this Bill."

DR. V. K. JOHN :—" So far as this Bill is concerned, good luck will attend on the Hon. Mr. Madhava Menon. I find this is one of the few Bills which are well-worded and well-arranged. Probably Mr. Madhava Menon who was the Chairman of the Select Committee took particular care to study every aspect and consult the persons affected by the Bill. It was a good thing that the Select Committee visited the places where the community to whom this Bill applies lives and took evidence. I repeat that as far as I can see this is a very well-worded piece of legislation. But my regret is this. Instead of having a common personal law for all Indians throughout the length and breadth of the country, we are enacting a law for a very small community in the West Coast. Probably we might have waited. In a year or two people will easily entertain the opinion that there should be one common personal law for the whole country regardless of community, caste or religion. But the law cannot be far in advance of the opinion of the people. The law depends upon ideas of right and wrong which the people hold at a particular time. If the matter is left to me, I would not have clause 4 (1) (ii) which says that the conjugal union of an Aliyasantana female with a male not belonging to such community and whether governed by the Aliyasantana Law or not, except a Hindu or Jain shall not be a legal marriage. I cannot see why an Aliyasantana female should not marry a Muslim or Christian. Such marriages may take place hereafter."

MR. PRESIDENT :—" But a Christian is not prevented from marrying an Aliyasantana female."

DR. V. K. JOHN :—" I think the law must provide both ways."

" What I am very much pleased with in this Bill is the saving clause 39. From a lawyer's or jurist's point of view, this is very important, although it is put down as the last clause. What really happens is that codification makes the law lose its flexibility. Judges with conservative instinct are not willing to interpret the

[Dr. V. K. John] [25th November 1948]

law in accordance with the growing opinion of the people. I am very glad that this clause has been included and the credit for it goes to the Hon. Minister. It says that nothing contained in this Act shall affect any rule of Aliyasantana Law except to the extent *expressly* laid down. By implication you cannot bring in something. Always custom and usage grow according to the growing opinion of the people. I hope that courts will interpret the provisions of law in a manner that will be acceptable to the growing opinion of the community as a whole. Before I sit down, may I express the hope that this Act and the other Acts dealing with the personal law of particular communities—I am speaking not about this province only but about the whole country—will all be repealed and that, instead there will be one law which will bind everybody whatever may be his community, caste, religion or place of residence.”

4-30
p.m.

* THE HON. SRI K. MADHAVA MENON :—“ Sir, the desire expressed by the hon. Leader of the Opposition is already contained in the draft Hindu Code which is before a Select Committee of the Central Legislature. When it is passed into law, it will apply to all Hindus. It will repeal all Acts on this subject including the Marumakkattayam Act. But I will be sorry for the repeal of the Marumakkattayam Act, because it is more advanced than the Hindu Code.

“ Now, Sir, section 4 of this Bill declares that the union of an Aliyasantana female with a male not belonging to such community and whether governed by the Aliyasantana Law or not, but being a Hindu or Jain shall be deemed for all purposes to be a legal marriage, while the provisions of the Malabar Marumakkattayam Act go even farther than that. It was thought that this provision was rather too far-reaching and so the original Bill did not contain this provision. People in South Kanara who are governed by the Aliyasantana Law were very much against it, and it required considerable persuasion on the part of the members of the Select Committee who went into the matter to make those people agree even to a provision of this sort.

“ Sir, I thank Dr. John for the suggestions he has made which will be considered when the time comes, but now I hope that this House will accept the motion I have made.”

MR. PRESIDENT :—“ The motion is that the Bill to define and amend in certain respects the law relating to marriage, maintenance, guardianship, intestate succession, family management and partition applicable to persons governed by the Aliyasantana Law of Inheritance, be taken into consideration.”

The motion was carried.

The Bill was then taken up clause by clause.

Clauses 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16; 17; 18, 19, 20, 21, 22, 23, 24 and 25 were put separately one by one and carried.

25th November 1948]

Clause 26.

* THE HON. SRI K. MADHAVA MENON :—" Mr. President, Sir, I beg to move that in clause 26,—

'In sub-clause (2), for " clauses (i), (iii), (v) and (vi) of section 20," substitute " clauses (i), (iii), (iv), (v) and (vi) of section 20 "'.

" Sir, there was a clerical mistake in sub-clause (2) of this clause with regard to the references to certain sections of the Bill and hence this amendment has to be brought in, and I hope it will be accepted by the House."

MR. PRESIDENT :—" The question is—

'In sub-clause (2) of clause 26, for " clauses (i), (iii), (v) and (vi) of section 20," substitute " clauses (i), (iii), (iv), (v) and (vi) of section 20 "'."

The amendment was carried.

Clause 26 as amended was put and carried.

Clauses 27, 28, 29, 30, 31, 32, 33, 34 and 35 were put one by one and carried.

Clause 36.

* THE HON. SRI K. MADHAVA MENON :—" Sir, I beg to move the following amendment standing in my name :—

'For the first paragraph of sub-clause (2) (a), substitute the following :—

" (a) If on the date on which a partition is claimed, any of the members of the kutumba who are nearest in degree to their common ancestress is removed four degrees or more from such ancestress, then, the division shall be effected in the following manner :—"

For sub-clause (2) (e) and (2) (f), substitute the following :—

" (e) The provisions of clauses (a) to (d) shall apply only to partitions claimed before the expiry of a period of fifteen years from the commencement of this Act.

(f) In a partition of a kutumba claimed after the expiry of the period aforesaid, a kavaru shall be allotted such share as would fall to it if a division of the kutumba properties were made per stirpes among all the kavarus."

At the end of sub-clause (2), add the following Explanation :—

" Explanation.—For the purposes of this sub-section, the date on which a partition is claimed shall be—

(a) where the claim is made by a suit for partition, the date of the institution of the suit (whether the suit is prosecuted or not); and

(b) where the claim is made otherwise than by a suit, the date on which such claim is made."

[Sri K. Madhava Menon] [25th November 1948]

For sub-clause (6), substitute the following :—

“(6) A registered family settlement (by whatever name called) or an award, to which all the major members of a kutumba are parties and under which the whole of the kutumba properties have been or were intended to be distributed, or purport to have been distributed, among all the kavarus of the kutumba for their separate and absolute enjoyment in perpetuity, shall be deemed to be a partition of the kutumba properties notwithstanding any terms to the contrary in such settlement or award.”

“Sir, here also certain mistakes have crept in, which were noticed by my hon. Friend Mr. Karanth who informed us about them and wanted us to correct these mistakes and hence this amendment, Sir.”

The amendment was put and carried.

Clause 36 as amended was put and carried.

Clauses 37, 38 and 39 were put one by one and carried.

Clause 1 and the Preamble were put separately and carried.

* THE HON. SRI K. MADHAVA MENON :—“Sir, I now move the Bill be passed into law. In this connexion I may state, Sir, that the same thing happened in the case of the Weights and Measures Bill, which was also introduced originally in this House and even though we thought we could accept any amendments in this House, so that it may not be delayed, yet no amendments were proposed.”

MR. PRESIDENT :—“The question is—

‘That the Bill to define and amend in certain respects the law relating to marriage, maintenance, guardianship, intestate succession, family management and partition applicable to persons governed by the Aliyasantana Law of Inheritance, be passed into law.’”

The motion was carried and the Bill was passed into law.

MR. PRESIDENT :—“I hope that when the Bill goes to the other House and if perhaps any amendments are proposed, the Government may either accept them or reject them, and if the Government accept them, this Bill will come back to this House. In either case, this House will be gratified.” (Laughter.)

DR. V. K. JOHN :—“I hope, Sir, that all Bills in future will first be introduced in this House.”

MR. PRESIDENT :—“At any rate a fair number of Bills may be introduced. That will remove this kind of feeling. Now we shall proceed to the next subject in the Agenda, viz., the Government Resolution.”

25th November 1948]

GOVERNMENT RESOLUTION.

III.—INCREASE IN THE MAXIMUM AMOUNT OF THE GUARANTEE GIVEN BY GOVERNMENT IN RESPECT OF DEBENTURES ISSUED BY THE MADRAS CO-OPERATIVE CENTRAL LAND MORTGAGE BANK, LIMITED.

THE HON. SRI K. CHANDRAMOULI :—“ Mr. President, Sir, I beg to move—

‘ That this Council recommends to the Provincial Government that they may under sub-section (2) of section 6 of the Madras Co-operative Land Mortgage Banks Act, 1934, increase the maximum amount of the guarantee given by them in respect of the debentures issued by the Madras Co-operative Central Land Mortgage Bank, Limited, up to a total face value of Rs. 450 lakhs, exclusive of such debentures as the Bank may from time to time redeem such debentures being issued for periods not exceeding in any case 25 years from the date of issue and bearing interest at a rate not exceeding 5 per cent per annum. ’

“ Sir, I need not go into all the details about the origin and history of the Madras Central Land Mortgage Bank at present, but shall only state that after trying various experiments and other things, and finding that there was not enough support from the public to take up its debentures, the Government in the end decided to guarantee the interest and principal on the debentures of the Central Land Mortgage Bank. Even with that, the public response was not very encouraging and the Central Land Mortgage Bank was not able to attract the public to subscribe to its debentures and compete with other institutions. In the end the Bank wanted that its debentures should be declared as trustee securities. For that purpose, the Government of India was addressed and they authorized the Provincial Government to bring forward a legislation declaring these debentures as trustee securities and also guarantee both the principal and interest and accordingly in 1934 the Land Mortgage Bank Act was brought in and passed by the Legislature. Ever since, the Central Land Mortgage Bank was able to work better and its debentures were able to attract public support in a very large measure. The maximum amount of guarantee which was fixed at Rs. 50 lakhs in 1934 rose to Rs. 446 lakhs in 1946. With its increased activities, the Central Land Mortgage Bank wanted to increase our guarantee to the maximum of Rs. 5 crores, but the Government felt that it was sufficient if we guarantee the principal and interest to the maximum of Rs. 450 lakhs and it is for that purpose that we have brought in this Resolution before the Legislature, because this cannot be done without the approval of both the Houses of the Legislature. After all, the Government are not giving any money in cash or as loan, but only giving a legal and technical sanction in the form of a guarantee. These debentures are very popular

INCREASE IN THE MAXIMUM AMOUNT OF THE GUARANTEE
GIVEN BY GOVERNMENT IN RESPECT OF DEBENTURES
ISSUED BY THE MADRAS CO-OPERATIVE CENTRAL
LAND MORTGAGE BANK, LIMITED

[Sri K. Chandramouli] [25th November 1948]

and most of them are taken up by co-operative institutions and by local bodies and these institutions cannot purchase them unless such guarantee is given by the Government. Otherwise there will be no market for these debentures.

“Moreover in all the other countries in the world, the ryot is helped by the Government in various ways. After all what is required is only a guarantee and if we cannot give this much of guarantee, the rate of interest on these debentures will have to be increased and hence the ryots will be put to serious difficulties. That is why this Resolution has been brought in and I hope the House will realize its importance and accept it.”

MR. PRESIDENT :—“The question is—

‘This Council recommends to the Provincial Government that they may under sub-section (2) of section 6 of the Madras Co-operative Land Mortgage Banks Act, 1934 increase the maximum amount of the guarantee given by them in respect of the debentures issued by the Madras Co-operative Central Land Mortgage Bank, Limited, up to a total face value of Rs. 450 lakhs, exclusive of such debentures as the Bank may from time to time redeem, such debentures being issued for periods not exceeding in any case 25 years from the date of issue and bearing interest at a rate not exceeding 5 per cent per annum.’”

DR. V. K. JOHN :—“Mr. President, Sir, according to my information, the Madras Co-operative Central Land Mortgage Bank is doing very good work and renders great service to the agriculturists and satisfies their necessity, which without this Bank, they would not be able to meet and wipe off their old debts. The Government are now giving a guarantee to the tune of Rs. 450 lakhs worth of debentures issued by the Bank and I have no doubt that we can have an assurance from the Hon. Minister that the Government will keep a close watch over the activities of the Bank.”

THE HON. SRI K. CHANDRAMOULI :—“Sir, from the previous history of this Bank, I can assure Dr. John that it has done immensely good work and it has never been a liability to us. Most of the loans given by the Bank to the ryots have been returned and there has been absolutely no difficulty in the matter of collecting their dues because loans are given on the mortgage of landed properties which, in these days, have appreciated very much. So we can trust the Central Land Mortgage Bank to function successfully and we can unhesitatingly give our approval to this guarantee which is asked for.”

The resolution was put and carried.

25th November 1948]

IV.—AMENDMENT TO THE RULES UNDER THE COTTON
TRANSPORT ACT 1.

THE HON. SRI K. MADHAVA MENON :—“ I move, Sir,
that—

“ *This Council recommends to the Provincial Government that the following notification submitted to it for approval under section 8 of the Cotton Transport Act (Central Act III of 1923) be issued in the form submitted :—*

4-45
p.m.

NOTIFICATION.

In exercise of the powers conferred by section 7 of the Cotton Transport Act, 1923 (Central Act III of 1923), His Excellency the Governor of Madras hereby makes the following amendment to the rules published with Development Department notification, published at pages 1455 to 1461 of Part I of the Fort St. George Gazette, dated the 25th September 1928, as subsequently amended :—

Amendment.

For rule (9-A) of the said rules, the following rule shall be substituted, namely :—

“ (9-A) *The licensing authority may require the inspection of any consignment of cotton by an officer of the Agricultural department, before the grant of a licence for the import of the consignment into a “ protected area.” The rates for such inspection shall be as follows :—*

- | | |
|---|---|
| (i) <i>Ginned cotton or cotton waste.</i> | <i>Rupee one per bale of 400 lb. or part thereof.</i> |
| (ii) <i>Unginned cotton.</i> | <i>Rupees two per bale of 800 lb. or part thereof.</i> |
| (iii) <i>Cotton seed ..</i> | <i>Annas eight for every 1,000 lb. or part thereof.</i> |

The levy of fees for the inspection of ginned or unginned cotton and cotton waste and cotton seed shall however be subject to a minimum of Rs. 100 in respect of such inspection irrespective of the number of varieties of cotton inspected. The officer will not be deputed for inspection outside the limits of the Province.”

This is only for making a provision for charging a fee for inspection of cotton, Sir, because we are now receiving a large number of requests for inspection. Before there was only a fee for a licence. Now we have to depute an officer to go and inspect the cotton and we thought it proper that we should charge a fee for such inspection. Accordingly we are providing for a scale of fee to be levied as inspection charges.”

The motion was put and carried.

MR. PRESIDENT :—“ The House will now adjourn and meet to-morrow at 11 a.m. for non-official business.”

The House adjourned.

November 1952]

IV. AMENDMENT TO THE RULES UNDER THE COTTON
TRANSPORT ACT.

THE HON. SRI K. MADHAVA MENON:—I move, Sir,

This I moved amendments to the Cotton Transport Rules, 1938 (Central Act III of 1938). The amendments are as follows:—
1. That the following notification issued to the Government of India (Central Act III of 1938) be issued in the form submitted:—

NOTIFICATION.

In exercise of the powers conferred by section 7 of the Cotton Transport Act, 1938 (Central Act III of 1938), the Government of India hereby make the following amendments to the Cotton Transport Rules, 1938 (Central Act III of 1938) and the amendments are as follows:—



வாய்மையே வெல்லும்
TRUTH ALONE TRIUMPHS

The House adjourned.

MR. PRESIDENT:—The House will now adjourn.

next to-morrow at 11 a.m. for non-official business.